

**Village of Head-of-the-Harbor  
and Village of Nissequogue  
Local Waterfront Revitalization Program**

*Adopted:*  
Village of Head-of-the-Harbor Board of Trustees, November 18, 1989  
Village of Nissequogue Board of Trustees, February 27, 1990

*Approved:*  
NYS Secretary of State Gail S. Shaffer, June 28, 1991

*Concurred:*  
U.S. Office of Ocean and Coastal Resource Management, September 16, 1991



Rec'd [Signature]  
JUN 4 1992

STATE OF NEW YORK  
DEPARTMENT OF STATE  
ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER  
SECRETARY OF STATE

JUN. 1 1992

Mr. James Burgess  
Chief  
Coastal Programs Division  
Office of Ocean and Coastal Resource  
Management  
National Oceanic and Atmospheric  
Administration  
1825 Connecticut Avenue, NW  
Universal Building South  
Washington, D.C. 20235

Dear Mr. Burgess:

Enclosed is the Village of Head of the Harbor and Village of Nissequogue Local Waterfront Revitalization Program (LWRP). The LWRP has been adopted by the municipalities and approved by the New York State Secretary of State. In addition, your office has concurred on its incorporation into the State's Coastal Management Program as a routine program implementation action. Copies of this document are also being transmitted to State agencies, as well as selected federal, county, and local agencies.

Should you have any questions or concerns regarding this document, feel free to contact either myself or Charles McCaffrey of this office at (518) 474-6000.

Sincerely,

George R. Stafford  
Director  
Division of Coastal Resources  
and Waterfront Revitalization

GRS:gn  
Enclosure

Village of Head-of-the-Harbor  
and Village of Nissequogue  
Local Waterfront Revitalization Program

U.S. DEPARTMENT OF COMMERCE NOAA  
COASTAL SERVICES CENTER  
1004 SOUTH HOBSON AVENUE  
CHARLESTON, SC 29405-2413

Property of CSC Library

HT168, H43 V55 1991

MAR 2 1990

*Adopted:*  
Village of Head-of-the-Harbor Board of Trustees, November 18, 1989  
Village of Nissequogue Board of Trustees, February 27, 1990

*Approved:*  
NYS Secretary of State Gail S. Shaffer, June 28, 1991

*Concurred:*  
U.S. Office of Ocean and Coastal Resource Management, September 16, 1991

This Local Waterfront Revitalization Program has been adopted and approved in accordance with the provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42) and its implementing regulations (6 NYCRR 601). Federal concurrence on the incorporation of this Local Waterfront Revitalization Program into the New York State Coastal Management Program as a Routine Program Implementation has been obtained in accordance with the provisions of the U.S. Coastal Zone Management Act of 1972 (P.L. 92-583), as amended, and its implementing regulations (15 CFR 923).

The preparation of this program was financially aided by a federal grant from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management, under the Coastal Zone Management Act of 1972, as amended. Federal Grant No. NA-82-AA-D-CZ068.

The New York State Coastal Management Program and the preparation of Local Waterfront Revitalization Programs are administered by the New York State Department of State, Division of Coastal Resources and Waterfront Revitalization, 162 Washington Avenue, New York 12231.

Advised:  
Board of Trustees  
Board of Trustees  
Board of Trustees  
Advised:  
Advised:  
Advised:

Village of Head-of-the-Harbor  
and Village of Nissequogue  
Local Waterfront Revitalization Program

*Adopted:*

Village of Head-of-the-Harbor Board of Trustees, November 18, 1989  
Village of Nissequogue Board of Trustees, February 27, 1990

*Approved:*

NYS Secretary of State Gail S. Shaffer, June 28, 1991

*Concurred:*

U.S. Office of Ocean and Coastal Resource Management, September 16, 1991

This Local Waterfront Revitalization Program has been adopted and approved in accordance with the provisions of the Waterfront Revitalization of Coastal Areas and Inland Waterways Act (Executive Law, Article 42) and its implementing regulations (6 NYCRR 601). Federal concurrence on the incorporation of this Local Waterfront Revitalization Program into the New York State Coastal Management Program as a Routine Program Implementation has been obtained in accordance with the provisions of the U.S. Coastal Zone Management Act of 1972 (P.L. 92-583), as amended, and its implementing regulations (15 CFR 923).

The preparation of this program was financially aided by a federal grant from the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management, under the Coastal Zone Management Act of 1972, as amended. Federal Grant No. NA-82-AA-D-CZ068.

The New York State Coastal Management Program and the preparation of Local Waterfront Revitalization Programs are administered by the New York State Department of State, Division of Coastal Resources and Waterfront Revitalization, 162 Washington Avenue, New York 12231.

Faint, illegible text, possibly a date or reference number.

Faint, illegible text, possibly a name or title.

Faint, illegible text, possibly a signature or initials.

A handwritten signature or set of initials, possibly in ink, located at the bottom of the page.

Faint, illegible text, possibly a name or title.



STATE OF NEW YORK  
DEPARTMENT OF STATE  
ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER  
SECRETARY OF STATE

JUN. 28 1991

Honorable Edward W. Hoffmann  
Mayor  
Village of Head of the Harbor  
27 Bacon Road  
St. James, NY 11780

Dear Mayor Hoffmann:

It is with great pleasure that I inform you that, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act, I have approved the joint Local Waterfront Revitalization Program (LWRP) prepared by the Village of Head of the Harbor and Village of Nissequogue. The Villages are to be commended for their thoughtful and energetic response to opportunities presented along their waterfronts, and for developing the first joint program to be approved on Long Island.

I will notify State agencies shortly that I have approved the LWRP and will provide them with a list of their activities which must be undertaken in a manner consistent to the maximum extent practicable with the LWRP.

Again, I would like to commend the Villages for their efforts in developing the LWRP and look forward to working with you in the years to come as you endeavor to revitalize your waterfront.

Sincerely,

A handwritten signature in cursive script, appearing to read "Gail S. Shaffer".

Gail S. Shaffer

GSS:gn



STATE OF NEW YORK  
DEPARTMENT OF STATE  
ALBANY, N.Y. 12231-0001

GAIL S. SHAFFER  
SECRETARY OF STATE

JUN. 28 1991

Honorable Warren A. Riis  
Mayor  
Village of Nissequoque  
P.O. Box 352  
St. James, NY 11780

Dear Mayor Riis:

It is with great pleasure that I inform you that, pursuant to the Waterfront Revitalization of Coastal Areas and Inland Waterways Act, I have approved the joint Local Waterfront Revitalization Program (LWRP) prepared by the Village of Head of the Harbor and Village of Nissequoque. The Villages are to be commended for their thoughtful and energetic response to opportunities presented along their waterfronts, and for developing the first joint program to be approved on Long Island.

I will notify State agencies shortly that I have approved the LWRP and will provide them with a list of their activities which must be undertaken in a manner consistent to the maximum extent practicable with the LWRP.

Again, I would like to commend the Villages for their efforts in developing the LWRP and look forward to working with you in the years to come as you endeavor to revitalize your waterfront.

Sincerely,

A handwritten signature in cursive script, reading "Gail S. Shaffer".

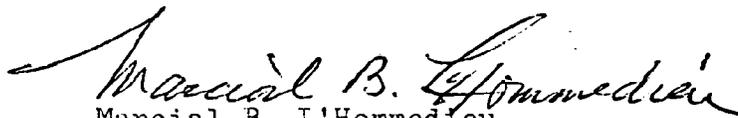
Gail S. Shaffer

GSS:gn

RESOLUTION FOR ADOPTION OF LWRP

Be it resolved that the Local Waterfront Revitalization Program (LWRP) jointly prepared by the Villages of Head-of-the-Harbor and Nissequogue pursuant to the provisions of the New York State Waterfront Revitalization and Coastal Management Act of 1981 and the United States Coastal Zone Management Act is hereby adopted, to become effective upon approval by the Secretary of State of the State of New York.

This is to certify that the above-listed resolution was duly adopted by the Board of Trustees of the Incorporated Village of Head-of-the-Harbor at a meeting held on November 18, 1989.

  
Marcial B. L'Hommedieu  
VILLAGE CLERK  
11/28/89

**LWRP  
NISSEQUOGUE SEQRA FINDINGS**

**WHEREAS,** the Village of Nissequogue entered into an agreement with the New York State Department of State for the preparation of a Local Waterfront Revitalization Program (LWRP) for the land and waters within the area of the Village, pursuant to the provisions of the New York State Waterfront Revitalization and Coastal Resources Act of 1981 and the U.S. Coastal Zone Management Act; and

**WHEREAS,** the Village's joint Coastal Management Planning Committee prepared and submitted to the Nissequogue Board of Trustees a preliminary Draft LWRP and a Draft Environmental Impact Statement; and

**WHEREAS,** in compliance with Article 8 of the New York State Environmental Conservation law and the rules and regulations promulgated thereunder (6NYCRR Part 617, hereinafter referred to as SEQRA), the Village Board adopted a Lead Agency designation via a Positive Declaration and circulated the same to appropriate agencies; and

**WHEREAS,** the Village Board (hereinafter referred to as Lead Agency) filed a notice of intent to prepare a Draft Environmental Impact Statement (DEIS) for the Draft LWRP; such action is considered to be a Type I Action pursuant to SEQRA since it is a guide for future actions affecting the coastal area of the Village and includes specifications to implement the policies of the LWRP, including amendments to the Village Code; adoption of a local consistency law to govern Village actions in the coastal area; adoption of an intermunicipal agreement with the Town of Smithtown governing Village and Town actions in coastal waters; creation of a Joint Coastal Management Commission with the Village of Head of the Harbor; formulation of a navigation and harbor management plan for Stony Brook Harbor; land acquisition and farmland retention; and harbor and river protection guides and public education efforts; and

**WHEREAS,** the Lead Agency accepted the DEIS as complete and Notice of Completion was made to appropriate agencies and published in the NYS Environmental Notice Bulletin; and

**WHEREAS,** a public hearing on the DEIS and Draft LWRP was held by the Lead Agency pursuant to legal notice, providing an opportunity for the general public to comment on the DEIS and Draft LWRP; and

**WHEREAS,** the Lead Agency did consider the following items and issues, among others:

- (a) the inventory and analysis identified in the Draft LWRP document;

- (b) New York State Coastal Management Policies;
- (c) the existing and proposed zoning of land within the coastal area of the Village;
- (d) the existing and historic uses of coastal lands and waters and the lands and waters adjacent thereto, and the relationship of such uses to the present and future welfare of the Village;
- (e) the importance and significance of historic sites in the coastal area;
- (f) the importance of high visual quality to the village and water-dependent recreational and natural resource values;
- (g) the importance of natural resource protection to the continuing preservation of high natural resource values in the coastal area;
- (h) initiation of projects and regulatory measures associated with the adoption and implementation of a LWRP;
- (i) the need to protect appropriate levels of public access to the water;
- (j) the need to preserve coastal water quality and the benefits derived therefrom;
- (k) the coastal boundary for the Village; and

WHEREAS, the Lead Agency identified possible positive and negative environmental impacts of LWRP implementation upon local natural, institutional, economic, development, energy, and social resources; and

WHEREAS, the Lead Agency prepared a Final Environmental Impact Statement (FEIS) to fully address concerns raised through the DEIS review process; and

WHEREAS, the Lead Agency determined that the FEIS was complete and thereby filed a Notice of Completion on and caused the Notice of Completion and FEIS to be properly circulated;

NOW, THEREFORE, BE IT RESOLVED, 1) that the Lead Agency has found that the requirements of Article 8 of the NYS Environmental Conservation Law and the rules and regulations promulgated thereunder have been met; 2) the Lead Agency finds and determines, based on the entire record of the environmental review process, including all relevant State and Village laws and records of Village agencies, including all correspondence received regarding the local coastal management planning process, that the LWRP is necessary to:

- ensure that a comprehensive local coastal management program and consistent set of policies is adopted to guide uses, development and activities in the coastal area and to protect the quality of the coastal environment;
- enhance water, natural resource and general environmental quality and to protect, maintain and enhance such quality, which is vital to the character of the Village;
- provide a sound basis to obtain funding for further coastal planning and management implementation from both federal and State sources and to assure these federal and State resources and agencies that the Village of Nissequogue LWRP is consistent with federal and State programs, and to ensure that federal and State agency actions are consistent with the Village's LWRP; and
- guarantee that local residents through local government will continue to have control over actions in their community.

**BE IT FURTHER RESOLVED**, that the Village Board of the Village of Nissequogue, serving as Lead Agency for SEQRA purposes, determines and decides that the adoption of the LWRP will have a significantly beneficial impact upon the coastal environment and generally upon the Village, and that the LWRP should be and is hereby adopted.

**Dated:** February 27, 1990

**Roll Call for Adoption:**

Mayor Warren A. Riis - - Yes

Trustees:

James J. McDonagh - - Yes

Richard H. Knight - - Yes

John J. McNulty - - Yes

Robert P. Clemente - Yes

**VILLAGE OF HEAD-OF-THE-HARBOR  
AND  
VILLAGE OF NISSEQUOGUE**

**LOCAL WATERFRONT REVITALIZATION PROGRAM**

This document was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Prepared by the Joint Committee on Coastal Management Planning of the Villages of Head-of-the-Harbor and Nissequogue, in the County of Suffolk.

Federal Grant No. NA-82-AA-D-CZ068

VILLAGE BOARD

VILLAGE OF  
HEAD-OF-THE-HARBOR

Edward W. Hoffmann, Mayor

Mark Cohen  
Alfred Lewandowski  
David Sayre  
Robert White

VILLAGE OF  
NISSEQUOGUE

Warren Riis, Mayor

C. Joseph Goodwin  
Richard Knight  
James McDonagh  
John J. McNulty

JOINT COMMITTEE ON COASTAL MANAGEMENT PLANNING

Louise Hall, Co-Chairman  
Village of Nissequogue

Anne Sayre, Co-Chairman  
Village of Head-of-the-Harbor

## TABLE OF CONTENTS

| SECTION | PAGE  |
|---------|---|
| I       | WATERFRONT REVITALIZATION AREA BOUNDARY . . . . . I-3   |
| II      | INVENTORY AND ANALYSIS . . . . . II-3   |
| A.      | Orientation . . . . . II-3  |
| B.      | Existing Land and Water Uses . . . . . II-3   |
| C.      | Environmental Conditions . . . . . II-26  |
|         | Summary and Analysis . . . . . II-71  |
| III     | WATERFRONT REVITALIZATION PROGRAM POLICIES . . . . . III-3                                      |
|         | Development Policies . . . . . III-3  |
|         | Fish and Wildlife Policies . . . . . III-8  |
|         | Flooding and Erosion Policies . . . . . III-15  |
|         | Public Access Policies . . . . . III-25   |
|         | Historic and Scenic Resources Policies . . . . . III-33   |
|         | Energy and Ice Management Policies . . . . . III-44   |
|         | Water and Air Resources Policies . . . . . III-46   |
| IV      | PROPOSED LAND AND WATER USES AND PROPOSED PROJECTS . . . . . IV-3                               |
| A.      | Proposed Land and Water Uses . . . . . IV-3   |
| B.      | Proposed Water Use . . . . . IV-9   |
| C.      | Proposed Projects . . . . . IV-9  |
| V       | TECHNIQUES FOR IMPLEMENTING THE LOCAL WATERFRONT<br>REVITALIZATION PROGRAM . . . . . V-3        |
| A.      | Existing Local Laws and Regulations . . . . . V-3   |
| B.      | Local Laws and Regulations Adopted to Implement the LWRP . . . . . V-12                         |
| C.      | Other Public and Private Actions Necessary<br>to Implement the LWRP . . . . . V-21              |
| D.      | Management Structure for Implementing the LWRP . . . . . V-22                                   |
| E.      | Financial Resources Necessary to Implement the LWRP . . . . . V-37                              |
| F.      | Summary Chart of Actions Implementing LWRP Policies . . . . . V-37                              |
| VI      | STATE AND FEDERAL ACTIONS AND PROGRAMS LIKELY TO AFFECT<br>IMPLEMENTATION . . . . . VI-3        |
| VII     | CONSULTATION WITH OTHER AFFECTED FEDERAL, STATE, REGIONAL<br>AND LOCAL AGENCIES . . . . . VII-3 |
| VIII    | LOCAL COMMITMENT . . . . . VIII-3   |

## LIST OF MAPS

|        |   | <u>Page</u> |
|--------|---|-------------|
| MAP 1  | KEY MAP                                 | I- 5        |
| MAP 2  | WATERFRONT REVITALIZATION AREA BOUNDARY |             |
|        | MAP 2A Village of Head-of-the-Harbor    | I- 7        |
|        | MAP 2B Village of Nissequogue           | I- 9        |
| MAP 3  | EXISTING LAND USE                       |             |
|        | MAP 3A Village of Head-of-the-Harbor    | II- 7       |
|        | MAP 3B Village of Nissequogue           | II- 9       |
| MAP 4  | ZONING                                  |             |
|        | MAP 4A Village of Head-of-the-Harbor    | II-27       |
|        | MAP 4B Village of Nissequogue           | II-29       |
| MAP 5  | COASTAL EROSION HAZARD AREAS            |             |
|        | MAP 5A Village of Head-of-the-Harbor    | II-35       |
|        | MAP 5B Village of Nissequogue           | II-37       |
| MAP 6  | FLOOD HAZARD AREAS                      |             |
|        | MAP 6A Village of Head-of-the-Harbor    | II-41       |
|        | MAP 6B Village of Nissequogue           | II-43       |
| MAP 7  | WETLANDS                                |             |
|        | MAP 7A Village of Head-of-the-Harbor    | II-47       |
|        | MAP 7B Village of Nissequogue           | II-49       |
| MAP 8  | FISH AND WILDLIFE HABITATS              |             |
|        | MAP 8A Village of Head-of-the-Harbor    | II-53       |
|        | MAP 8B Village of Nissequogue           | II-55       |
| MAP 9  | PROPOSED LAND USE                       |             |
|        | MAP 9A Village of Head-of-the-Harbor    | IV- 5       |
|        | MAP 9B Village of Nissequogue           | IV- 7       |
| MAP 10 | PROPOSED ZONING                         |             |
|        | MAP 10A Village of Head-of-the-Harbor   | V- 15       |
|        | MAP 10B Village of Nissequogue          | V- 17       |

**SECTION I**

**WATERFRONT REVITALIZATION AREA BOUNDARY**

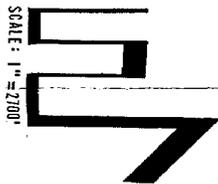
## **SECTION 1: WATERFRONT REVITALIZATION AREA BOUNDARY**

The Waterfront Revitalization Area Boundary for the Villages of Head-of-the-Harbor and Nissequogue is shown on Maps 1, 2A and 2B and is described as follows:

**BEGINNING** at a point in Stony Brook Harbor 500 feet from the mean high water mark at the intersection of the Village of Head-of-the-Harbor boundary line and Town of Brookhaven boundary line, proceeding southeast along the said municipal boundary line to a point immediately south of Wellington Drive (Town of Brookhaven); proceeding southwest along the municipal boundary line to its intersection with Shep Jones Lane; following the easterly right-of-way line of Shep Jones Lane south to its intersection with State Route 25A, proceeding southeast approximately 2000 feet along Route 25A to a point 300 feet east of Mills Pond Road; thence south approximately 500 feet; thence east 250 feet; thence south 100 feet; thence proceeding due west to intersect with State Route 25A; thence proceeding south to its intersection with Thompson Hill Road, proceeding west along Thompson Hill Road to its intersection with the southerly right-of-way line of Three Sisters Hollow Road; proceeding southwest along Three Sisters Hollow Road to its intersection with Moriches Road; proceeding approximately 200 feet southeast along Moriches Road to its intersection with Highland Avenue, proceeding south 300 feet along the centerline of Highland Avenue, thence east 200 feet, thence north 250 feet to Moriches Road; proceeding southeast along Moriches Road to its intersection with State Route 25A, thence northeast 100 feet to the intersection of State Route 25A with Moriches Road thence south to the intersection with Lake Avenue; proceeding south on Lake Avenue 300 feet, thence west 400 feet, thence south 900 feet to the northern right-of-way line of the Long Island Railroad; proceeding 1,800 feet west along the right-of-way to a point approximately 300 feet east of Northern Boulevard, thence north 900 feet, thence east 250 feet, thence east 100 feet, thence north 400 feet to the point of intersection with Route 25A; proceeding southwest along Route 25A to a point approximately 1,100 feet southwest of Timothy Lane thence west 300 feet, thence south 100 feet, thence west 600 feet to the eastern right-of-way line of Fifty Acre Road, thence south 800 feet; thence west 400 feet to the intersection with Route 25A to the northern right-of-way line of the Long Island Railroad, proceeding southwest about 1,800 feet, thence proceeding north 2500 feet, thence proceeding west 800 feet, thence proceeding north 3700 feet to the point of intersection with the Village of Nissequogue boundary line; thence 2200 feet southwest to the intersection with Mill Road; proceeding southwest along Mill Road to its intersection with the western right-of-way line of Nissequogue River Road; proceeding south 2,000 feet, thence west 1,500 feet following the centerline of Mill Creek to the mean high water mark of the Nissequogue River; proceeding northwest along the mean high water mark of the Nissequogue River around the Short Beach sand spit to the mean high water mark of Smithtown Bay; proceeding east along the mean high water mark to the eastern tip of the Long Beach peninsula at the inlet to Stony Brook Harbor; proceeding west along the southern side of the Long Beach peninsula at the mean high water mark of Porpoise Channel, proceeding south along the mean high water mark of Stony Brook Harbor to a point of intersection with the municipal boundary of the Village of Head-of-the-Harbor; thence extending in a straight line 500 feet into Stony Brook Harbor, thence proceeding at a distance of 500 feet from the mean high water line northeast to the point of beginning.



SCALE: 1" = 2700'

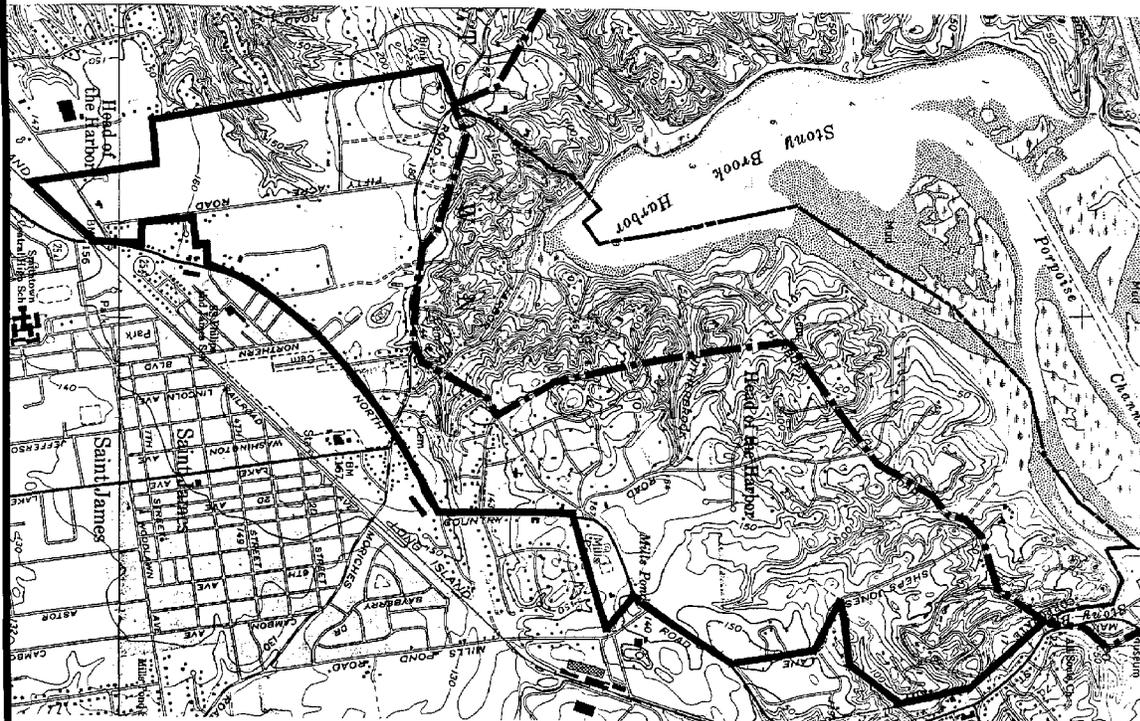


**MAP 1**

**AREA MAP**  
**Local Waterfront Revitalization Program**  
 Villages of  
**Head-of-the-Harbor & Nissequogue**

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-B2-AA-D-CZ068  
 Date of Preparation: February 1987



**LEGEND**  
 Municipal Boundary  
 NYS Coastal Area Boundary  
 Proposed Coastal Area Boundary Extension

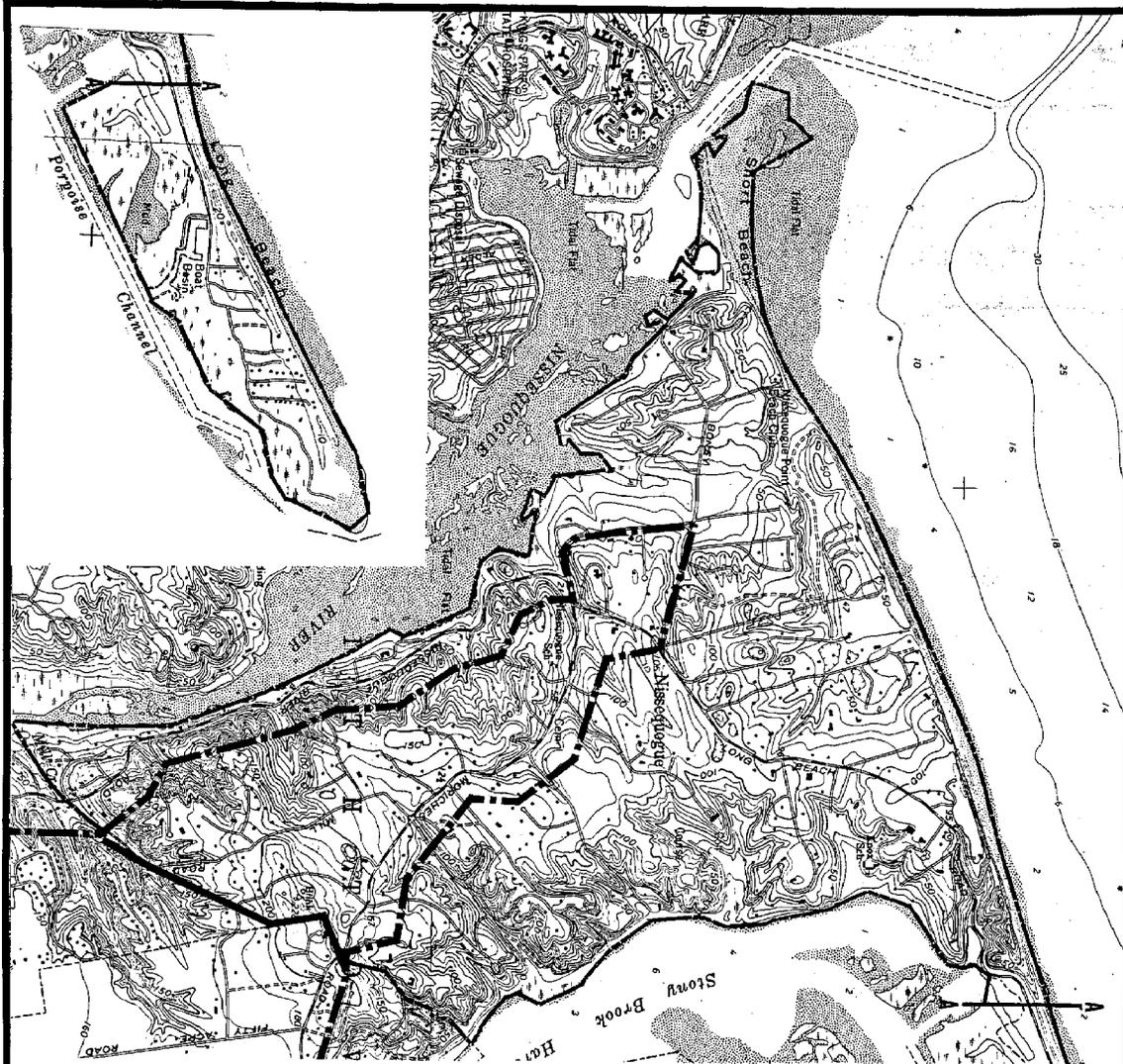


SCALE: 1" = 2000'

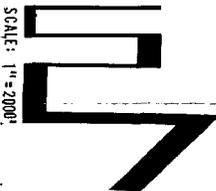
**MAP 2A**

**Coastal Area Boundary  
 Local Waterfront Revitalization Program  
 Village of Head-of-the-Harbor**

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended. Federal Grant Number: NA-92-AA-D-CZ058 Date of Preparation: February 1987



**LEGEND**  
 Municipal Boundary  
 NYS Coastal Area Boundary  
 Proposed Coastal Area Boundary Extension



**MAP 2B**

# Coastal Area Boundary

## Local Waterfront Revitalization Program

### Village of Nissequogue

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-82-AA-D-CZ063  
 Date of Preparation: February 1987

**SECTION II**

**INVENTORY AND ANALYSIS**

## SECTION II: INVENTORY AND ANALYSIS

### A. ORIENTATION

The Villages of Head-of-the-Harbor and Nissequogue are located adjacent to each other on the north shore of Long Island in the northwest quadrant of Suffolk County. The Villages lie within the Town of Smithtown, and Head-of-the-Harbor abuts the Town of Brookhaven on the east. The Villages contain approximately 3,862 acres, or 6.2 square miles.

The coastal area of the Villages is diverse, including an estuarine river, dramatic bluffs along Smithtown Bay and a nearly pristine natural harbor. The rural character of the Villages is enhanced by their natural setting which includes steep wooded slopes, wetlands and open fields.

The Villages are principally residential, with some institutional uses, scattered agricultural production, high quality active and passive recreation, and architectural resources. The Town of Smithtown, which surrounds the Villages, provides the commercial support needs of residents.

Section II of this Local Waterfront Revitalization Program presents an inventory of the Villages' coastal resources and analyzes issues and opportunities facing the Villages.

### B. EXISTING LAND AND WATER USES

#### 1. Existing Land and Water Uses

The Villages of Head-of-the-Harbor and Nissequogue are predominantly low-density residential communities, as shown in Table 1, and on Maps 3A and 3B.

Table 1

Existing Land Use -- 1983\*

| <u>Land Use<br/>Categories</u> | <u>Head of the Harbor</u> |                | <u>Nissequogue</u> |                |
|--------------------------------|---------------------------|----------------|--------------------|----------------|
|                                | <u>Acres</u>              | <u>Percent</u> | <u>Acres</u>       | <u>Percent</u> |
| Residential                    | 877.3                     | 53.7           | 1,308.9            | 56.9           |
| Agricultural                   | 306.4                     | 18.8           | 88.9               | 3.9            |
| Institutional                  | 28.2                      | 1.7            | 73.7               | 3.2            |
| Conservation/<br>Open space    | 144.4                     | 8.8            | 395.7              | 17.2           |
| Commercial                     | 0.3                       | 0.02           | 0                  | 0              |
| Vacant                         | 276.1                     | 16.9           | 432.3              | 18.8           |
| Total                          | 1,632.7                   | 100.0          | 2,229.5            | 100.0          |

\* Data compiled by the Long Island Regional Planning Board.

There are no high density residential areas in either Village. The average developed residential lot exceeds the principal required minimum lot size of two acres which is established in both Villages' Zoning Laws. In Head-of-the-Harbor, the average developed residential lot size is 2.7 acres, while in Nissequogue it is 3 acres.

A large proportion of the residential land is occupied by estates. In Head-of-the-Harbor, estates account for 290 acres or 33% of the residential land. Two-thirds of the estate property in the Village borders Stony Brook Harbor. In Nissequogue, 40%, or 522 acres, of residential land is in estate holdings. The bulk of the estates in Nissequogue are adjacent to either Stony Brook Harbor or to the Nissequogue River.

The Villages are rather unique in western Suffolk County because they both contain active agricultural land. Head-of-the-Harbor retains over 306 acres of agricultural land. Most of this land is along Fifty Acre Road and along Route 25A, on the east side of the Village. Forty-five acres is permanently protected under the Suffolk County Farmland Preservation Program. This parcel, part of the Perry Farm, is located on Route 25A. Prime soils and favorable climate have made production of field crops the predominant agricultural business in Head-of-the-Harbor. Nissequogue has approximately 88 acres of agricultural land, which accounts for only 4% of its land area. This land is in horse farms.

Institutional uses, such as churches, schools and municipal buildings, occupy a relatively small proportion of land in the Villages. In Head-of-the-Harbor, nearly 28 acres are devoted to churches and parish houses. It also includes the Harbor Country Day School, a private, non-denominational elementary school on Thompson Hill Road; the Mills Pond House on Route 25A run by the Town of Smithtown as an historical site; and the Bay School House, located on Moriches Road. Institutional land uses in Music Nissequogue amount to about 74 acres, almost all of which are owned by the Knox School, which is a private, non-denominational secondary school. This school has two major holdings, one in the southern part of the Village and the main one in the northeastern part of the Village on Long Beach Road, adjacent to Stony Brook Harbor. Two small institutional parcels are occupied by the fire department and the Village Hall.

In both Villages, recreation and open space is a significant land use. There are 144 acres of land in this category in the Village of Head-of-the-Harbor. This includes 96 acres owned by the Nature Conservancy. The Nature Conservancy parcels are located on Shep Jones Lane and on the west side of Fifty Acre Road. The remainder of the recreational and open space land is wetlands owned by the Village along Stony Brook Harbor and property owned by the Stony Brook Foundation and the Stony Brook Community Fund. It also includes a swim and tennis club and three small cemeteries. Nissequogue has over 17% of its land area in open space and recreational uses. The Nature Conservancy owns 130

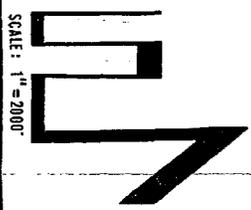
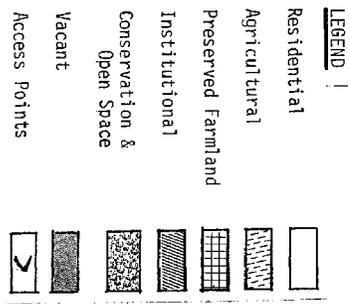
acres, most of which is north of Boney Lane and includes bluffs overlooking Long Island Sound. The Nissequogue Golf Club accounts for another 126 acres, overlooking Stony Brook Harbor. The Town of Smithtown is a major recreational land owner in the Village. The Town has 91 acres comprised of Short Beach Park, a beach and dune complex at the mouth of the Nissequogue River. The Long Beach Park is located on Stony Brook Harbor and provides marina facilities. The Village's principal holding is a wildlife refuge on the eastern end of Long Beach peninsula.

**2. Water-Dependent and Water-Enhanced Uses/Public Access and Recreation**

There are no commercial water uses in either Village. Neither the Nissequogue River nor Stony Brook Harbor is suitable for any kind of commercial development. Navigational conditions and shallow depths exclude all but small boats. Although the supply of fish is sufficient for recreational purposes, commercial fishing is precluded. Some commercial shellfishing is conducted on a very small scale and limited basis in Stony Brook Harbor; it is severely restricted in the Nissequogue River owing to water pollution. Water-dependent and water-enhanced uses are, therefore, almost exclusively recreational in nature. There are also some educational and scientific pursuits which occur in the Villages because of their waterfront location.

Water-dependent recreation is broken into active uses and passive uses and activities. The Villages themselves provide no active recreational facilities. The Town of Smithtown owns and operates three active use facilities. Two are in Nissequogue -- Short Beach near the mouth of the Nissequogue River and Long Beach on the northside of Stony Brook Harbor; and one at the boundary between Nissequogue and Head-of-the-Harbor, at Cordwood Path. The Long Beach and Cordwood Path facilities are located on Stony Brook Harbor. Long Beach provides a swimming and bathing beach, picnicking, two boat launching ramps, a 167 slip marina, and a mooring basin for 110 boats. Pumpout facilities have been installed and should be maintained and used. The shallow, quiet water at Cordwood Path Beach draws families with young children. This beach is partially artificial, and there are no other natural sand beaches on Stony Brook Harbor. The creation of additional sand beaches would severely impact the harbor's wetland habitats. Short Beach Town Park, located in Nissequogue at the mouth of the Nissequogue River, provides a swimming beach with support facilities and a colonial waterbird preserve.

Motor boat speeding is a major problem in the harbor and the river. In areas where they should be travelling at five (5) mph, they have been clocked by radar at more than 60 mph. This poses safety hazards as well as environmental damage to wetlands caused by erosion and sedimentation resulting from vessel wakes and propeller wash.



**MAP 3A**

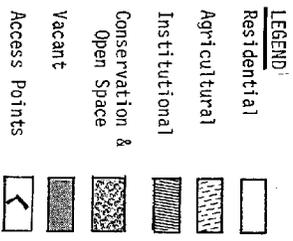
# Existing Land Use

## Local Waterfront Revitalization Program

### Village of Head-of-the-Harbor

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-82-AA-0-C2068  
 Date of Preparation: February 1987



**MAP 3B**

# Existing Land Use

## Local Waterfront Revitalization Program

### Village of Nissequogue

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-R2-M-D-CZ063  
Date of Preparation: February 1987

The Villages do provide passive recreational opportunities. The Village of Nissequogue owns a 27 acre parcel at the eastern end of the Long Beach peninsula. This area is used for nature study and a wildlife preserve. The site is accessible only on foot.

Both the Nissequogue River and Stony Brook Harbor are utilized for waterfowl hunting. Public access is provided at Short Beach Town Park on the Nissequogue River and at park areas on the west banks of the river outside of the Villages' LWRP boundaries.

On Stony Brook Harbor, public access for walking, boating, fishing and waterfowl hunting is available in the form of four public "landings", one in Nissequogue (Smith Lane) and three in Head-of-the-Harbor (at the foot of Thompson's Lane, at Hitherbrook Extension and Shep Jones Lane Extension). These areas permit launching of small boats which are suited to harbor conditions.

Considering the low density of the Villages which allows for private recreation on most sites, plus the existence of the active recreation sites owned by the Town of Smithtown, there is little need for the Villages to develop active recreational sites. Marina accessibility is very limited within the Town; however, Village sponsorship of such a use would have probable significant adverse impacts on wetlands, water quality and habitats.

Privately-owned water-related recreation includes the Smithtown Bay Yacht Club. Pumpout stations are not available and should be installed. There is also a privately-owned beach club with access to Long Island Sound north of Boney Lane, east of Short Beach; both are in Nissequogue.

While recreational facilities are extensive in the two Villages, and public access so open, the number of persons attracted to the beaches and boating facilities is great enough to present a traffic problem especially on summer weekends. Any material increase in active recreational areas would entail escalating costs not only in the provision and maintenance of road access, but in damage, possibly irreversible, to valuable resource areas. For example, enlarging of beaches would entail an increase in erosion hazards, or destruction of wetlands, or both.

Increasingly, the State University of New York at Stony Brook has begun experimental studies in mariculture, clam and oyster rafting, lobster rearing, and related subjects, using the harbor as a living laboratory. The University has also conducted for some time studies of birds and wildlife based upon the inhabitants of the wetlands surrounding the harbor, and of the nesting sites and sanctuaries on the Long Beach and Short Beach sand spit.

**3. Vacant Land and Land Available for Development**

There are no sites which can be described as underutilized, abandoned or deteriorated within the Villages of Nissequogue and Head-of-the-Harbor.

However, the Villages do have large areas which are currently in agricultural, estate, private recreational or institutional uses which may, all or in part, become available for development. There are also numerous vacant lots, some of which can be further subdivided, in both Villages.

The Suffolk County Planning Department did an analysis of land available for development in each Village in 1983 and 1984. The County's analysis, based on maximum buildout under existing zoning, showed that the number of housing units in each Village could potentially increase by 80-90% over existing numbers.

According to the county studies, approximately 20% of the vacant land in each Village is in individual lots and is immediately available for construction. These lots are scattered throughout the Villages. In Head-of-the-Harbor, 129 new housing units could be built. One hundred seven new houses could be built in Nissequogue.

The large parcels, which are coming under increasing pressure to subdivide, include estate properties and farmlands. In Nissequogue, over one half of all land available for development is in estate and other large parcels. This amounts to 522 acres. There are 283 acres of estate lands in Head-of-the-Harbor which can be subdivided. Farmland is a more significant source of potential building lots in Head-of-the-Harbor than in Nissequogue. Farmland is more likely to be developed before estate properties because it is more easily developed and costs less per acre. This is a threat to continued agricultural production in the Villages.

While not vacant or underutilized at the present time, the Nissequogue Golf Club and the Knox School offer the potential for subdivision and development of additional housing units. Development of country club and institutional properties is occurring in other Long Island locations. Both properties have access to Stony Brook Harbor.

**4. Agriculture**

Although the Villages are located in a rapidly urbanizing area, they retain an important stock of agricultural land.

In Head-of-the-Harbor, 12.9% of the Village area, or 210.6 acres of land, is still actively farmed at the present time; of this, 45.6 acres, or 2.8% of the Village, is preserved under the Suffolk County Farmland Preservation Program.\* In Nissequogue, 3.9% of the Village by area, or 88.9 acres, is listed as in agricultural use, and is occupied by horse farms. Although much of the soil in the Villages is the glacial morainal till typical of the north shore of Long Island, virtually all the remaining agricultural land is categorized as prime, and should be preserved as an important resource.

It must be noted, however, that farmland is disappearing in the Villages. More than 100 acres of land under cultivation in Head-of-the-Harbor were acquired for development in the period between October 1983 and October 1984, and by the present time nearly all of this has been developed for residential use. The Dubois Smith farm in Nissequogue, at the corner of Boney Lane and Horse Race Lane, recently was put up for sale.

Eleven of the eighteen acres previously in vegetable crops will be converted. The extremely high market value of building lots has created an enormous pressure to convert farmland, and no doubt the pressure will continue unabated. The resources of private and public preservation programs are limited, and the rising farmland prices strain these resources beyond their capacity to respond except in unusual, or unusually urgent, instances. Communities can rarely afford to acquire such valuable property by the exercise of eminent domain; farmland preservation typically is accomplished, outside of subsidized programs, by zoning to promote agriculture and open-space, and through such means as cluster development.

##### **5. Historic Structures, Sites, and Districts**

The history shared by the Villages of Head-of-the-Harbor and Nissequogue is long, and is manifested in the preservation of an unusual number of identifiable sites and structures and other substantial material remains of the past. Extensive archeological findings are connected with the original residents, members of the Nissequogue or Nesaquake tribe, who maintained a permanent and major "royal seat" within the area of the present-day Village of Nissequogue. The records are

---

\* The preserved land, known as the Perry Farm, and lying between State Route 25A and Shep Jones Lane, is not only prime agricultural land, but is also geologically unique, and of great historic interest as land which has been continuously farmed for 300 years.

especially rich along the Nissequogue River, where a complex cultural history going back more than 2000 years can be read, but the entire area of the present-day Villages provides frequent finds of artifacts. An Indian burial ground has recently been identified on the grounds of the Knox School; the high land at the extreme southern end of Stony Brook Harbor was once an Indian meeting or assembly place as well as a lookout point from which the approach of boats could be signalled. Fragments found in conjunction with clay deposits at two sites suggest the existence of potteries. The presence of many tools and weapons fashioned from non-local materials, including flint, provide an idea of the extent of cross-sound commerce and trade. Such remains are often turned up in excavations for new buildings, requiring analysis and mitigation during the environmental review process.

European settlement, commencing in the last third of the 17th century, is thoroughly recorded in remaining sites and structures. Richard Smith, Patentee (1613-1692), is buried in Nissequogue and many of the surviving old houses are connected with Smith's sons or their descendants.

In addition to early colonial structures, the Villages also contain important late-19th century homes designed by prominent architects including Stanford White, Charles McKim, and the firms of Peabody, Wilson and Brown (Archibald Brown), Ford, Butler and Oliver (Lawrence Butler) and I. H. Green of Sayville.

Apart from significant individual structures and sites in both Villages, Head-of-the-Harbor contains portions of three National Register historic districts located along Route 25A. The three districts are, from east to the west, Mills Pond District and the St. James District; the North Country Road District is in four sections and surrounds the St. James District. For purposes of planning and architectural review, the Village of Nissequogue has designated the entire Village a local historic area.

The Villages are jointly proposing an extensive thematic National Register District embracing Stony Brook Harbor estates (c. 1690-1926) which is awaiting approval. Many of the houses in the proposed district are already listed on the National Register.

The lists, beginning on the following page, show those structures and sites considered of importance in each Village.

Sixty-four structures or sites of historic or architectural significance exist in Nissequogue. Where important, the architects are identified.

SITES OF HISTORIC AND ARCHEOLOGICAL SIGNIFICANCE  
VILLAGE OF NISSEQUOGUE

| <u>Structure or Site</u>                      | <u>Location</u> | <u>Date</u> | <u>Tax Map Number</u> |
|---|-----------------|-------------|-----------------------|
| J. E. Petty House                             | 207 River Road  | 1899        | 801-007-3-11          |
| G. Petty House                                | 201 River Road  | 1855        | 801-007-3-11          |
| Boat Club                                     | 199 River Road  | 1900        | 801-006-2-35          |
| Hawkins-Anderson House                        | River Road      | 1909        | 801-007-1-11          |
| Wiedenkeller House (site of Hawkins house)    | River Road      |             | 802-11-3-4            |
| Melvin house                                  | 194 River Road  | 1921        | 802-11-1-3            |
| Adams-Bruemmer house                          | 195 River Road  | 1873        | 802-11-1-2            |
| Martin Taylor estate (Ford, Butler, Oliver)   | 191 River Road  | 1920        | 802-11-1-1            |
| Osborne-Delafield house (McKim, Mead, White)  | River Road      | 1914        | 802-9-3-25            |
| Malcolm Smith house (Ford, Butler, Oliver)    | River Road      | 1916        | 802-9-3-2             |
| Caleb T. Smith estate Gate House              | Horse Race Lane | 1870        | 802-9-3-1             |
| Caleb T. Smith-Hall estate                    | Horse Race Lane | 1869        | 802-9-1-12            |
| Howell House                                  | Horse Race Lane | 1800        | 802-9-1-11            |
| Matherson-Lane estate (Arthur Little)         | Boney Lane      | 1860        | 802-1-2-2             |
| Lane Supt. House (Ford, Butler, Oliver)       | Boney Lane      | 1913        | 802-1-2-4             |
| Lane Stable and Garage (Ford, Butler, Oliver) | Boney Lane      | 1920        | 802-1-2-1             |

|   |                    |      |              |
|---|--------------------|------|--------------|
| Lane estate ice house   | Boney Lane         | 1901 | 802-1-2-2    |
| Lane estate servants' house                                   | Boney Lane         | 1909 | 802-1-2-1    |
| Nissequogue Point Beach, Inc.                                 | Boney Lane         | 1920 | 802-2-1-1    |
| Blodgett-Weld house<br>(Polhemus & Coffin)                    | 174A Boney Lane    | 1915 | 802-8-1-11.4 |
| Caleb T. Smith cottage  | Off Boney Lane     | 1870 | 802-2-2-9    |
| DuBois T. Smith Farm  | Off Boney Lane     | 1906 | 802-2-2-9.3  |
| Turnure-Woody House<br>(George P. Butler)                     | Off Boney Lane     | 1934 | 802-3-1-1.1  |
| Harries tenant house  | Long Beach Road    | 1800 | 802-9-2-1.1  |
| "Holly-by-Golly" Meserve House<br>Original Richard Smith wing | Long Beach Road    | 1670 | 802-9-1-6    |
| Berdell-Fletcher estate                                       | Long Beach Road    | 1930 | 802-3-1-1.2  |
| Berdell-Fletcher stables                                      | Long Beach Road    | 1930 | 802-3-1-21   |
| Phyfe House   | 87 Stillwater Lane | 1904 | 802-3-5-1    |
| Raymond Sloan House   | Long Beach Road    | 1939 | 802-4-2-3    |
| The Knox School<br>(Peabody, Wilson, Brown)                   | Long Beach Road    | 1914 | 802-3-3-1    |
| Seabury-Huntington House                                      | Long Beach Road    | 1860 | 802-5-2-1.1  |
| Wash House  | Long Beach Road    |      |              |
| Carriage House  | Long Beach Road    |      | 802-3-5-3    |
| E.T. Smith Farmer's Quarters                                  | Moriches Road      |      | 802-9-1-18   |
| Superintendent's House  | Moriches Road      |      | 802-9-1-20   |
| Harries barn  | Moriches Road      | 1837 | 802-9-2-1.1  |
| "New" Nissequogue School                                      | 70B Moriches Road  | 1937 | 802-9-3-31   |

|   |                  |           |              |
|---|------------------|-----------|--------------|
| Job Smith homestead (Malone)  | 69 Moriches Road | 1710      | 802-9-2-2    |
| Old Nissequogue School  | Moriches Road    | 1808      | 802-9-2-4    |
| Ryan estate-Niss. Golf Club<br>(Bradley Delahanty)                  | Moriches Road    | 1930      | 802-3-5-27.1 |
| Gade-Delafield house<br>(William Delano)                            | 62 Moriches Road | 1926      | 802-9-3-28.3 |
| "Dick-Nezer" Smith House  | Smith Lane       | 1688      | 802-10-1-2.3 |
| Reboul-Olney House<br>"Woodcrest" (I.H. Green)                      | Moriches Road    | 1895      | 802-10-3-6.1 |
| Lawson House<br>(Polhemus & Coffin)                                 | Moriches Road    | 1926      | 802-10-2-30  |
| Gorham-Paton House<br>(Honohan)                                     | Moriches Road    | 1930      | 802-10-3-5.1 |
| Case-Whittemore-Windels<br>"Harbor House"<br>(Ford, Butler, Oliver) | Moriches Road    | 1930      | 802-10-4.5   |
| Branglebrink-Hollandia Farm<br>(Ford, Butler, Oliver)               | Moriches Road    | 1880-1909 | 802-12-1-3   |
| Butler-Schabert House<br>"By-the-Harbor"<br>(Charles McKim)         | Moriches Road    | 1878      | 802-12-2-12  |
| The "Casino" -Squash Court<br>(McKim, Mead, White)                  | Moriches Road    | 1890      | 802-12-2-13  |
| Butler Estate-Octagonal<br>in-ground water tank                     | Moriches Road    |           | 802-12-2-13  |
| Butler Estate- Superintendent's<br>House                            | Moriches Road    |           | 802-12-2-14  |
| Onet House<br>(Ford, Butler, Oliver)                                | Moriches Road    | 1920      | 802-10-4-9   |
| Boat House  | Moriches Road    | 1920      | 802-10-4-9   |

Important archeological sites in the Village of Nissequogue include:

Nissequogue Indian remains, James Creek Cove settlement and burial ground at Rassapeague-Knox School site. Other Indian sites have been identified in Delafield Wood, and off Boney Lane.

"Bull" Smith cemetery, where the Patentee of Smithtown is buried.

Site of the First Church on Moriches Road.

The following natural areas are considered of significance to the Village of Nissequogue:

|                          |                                |               |
|--------------------------|--------------------------------|---------------|
| Delafield Woods          | Off River Road                 | 802-9-3-24    |
| "Whip Tree"              | Long Beach Road                | 802-9-1-6     |
| Boldgett-Weld cabin      | Off Boney Lane                 | 802-2-1-6     |
| Pig Creek-natural area   | Long Beach Road                | 802-5-1-3-4,5 |
| Long Beach Barrier Beach | Long Beach                     | 802-5;802-6   |
| Hubbs-Huntington Pond    | Moriches Road                  | 802-12-1-15   |
| Short Beach              | Mouth of the Nissequogue River |               |

SITES OF HISTORIC and ARCHEOLOGICAL SIGNIFICANCE  
in the VILLAGE of HEAD-OF-THE-HARBOR

| <u>Structure or site</u>                         | <u>Location</u>             | <u>Date</u> | <u>Tax Map Number</u>  |
|--|-----------------------------|-------------|------------------------|
| J.L. Mallamo house                               | Moriches Road               | c. 1860     | 801-007-3-11           |
| Old butcher shop                                 | Moriches Road               | c. 1860     | 801-007-3--11          |
| United Methodist Church                          | Moriches Road               | 1898        | 801-006-2-35           |
| Gibson-Sherman house                             | Moriches Road               | 1888        | 801-007-3-9            |
| Edgar L. Smith-Parke house                       | Moriches Road               | 1890        | 801-007-1-11           |
| T.F. Smith-Parke house                           | Moriches Road               | 1877        | 801-007-3-7            |
| George Newton house                              | Moriches Road               | 1890        | 801-007-3-6            |
| William Collier house                            | Moriches Road               | c. 1900     | 801-007-3-5            |
| Babcock-Hesse house                              | Moriches Road               | 1936        | 801-007-3-2            |
| Wetherill iron gates<br>(Stanford White)         | (now at Wetherhill<br>Lane) | 1898        | 801-006-1-30           |
| "Box Hill" former main gates<br>(Stanford White) | Moriches Road               | 1885        | 801-006-1-25           |
| Lessard "Red Cottage"                            | Moriches Road               | c. 1840     | 801-006-1-24           |
| L. White "White Cottage"                         | Moriches Road               | c. 1840     | 801-006-1-22           |
| Deacon Hallock house                             | Off Moriches Road           | 1740        | 801-006-1-26           |
| Captain Scott-Hubbs house                        | 10 Moriches Road            | 1870        | 801-007-1-11           |
| "Box Hill" appurtenances<br>(Stanford White)     | Moriches Road               | 1880-1906   | 801-007-1-17,<br>18,20 |
| Robert White house                               | 5 Moriches Road             | c. 1840     | 801-007-1-19           |

|   |                    |               |                 |
|---|--------------------|---------------|-----------------|
| "Box Hill" main house<br>(1880-1906 additions - Stanford<br>White)<br>(1935 additions - Lawrence G.<br>White) | Moriches Road      | c. 1840       | 801-006-1-15    |
| Friends' Meeting House<br>(Lawrence S. Butler)  | Moriches Road      | 1908          | 801-007-1-1-2.3 |
| Huntington cottage<br>(Hubbs house)   | 10A Moriches Road  | 1839          | 801-007-1-1     |
| John Collier house  | Harbor Hill Road   | 1890          | 801-006-2-24    |
| T. Farrell house  | Harbor Hill Road   | 1900          | 801-006-2-33    |
| Skidmore-T. Smith house   | 30 Harbor Hill Rd. | 1830-<br>1840 | 801-006-2-32    |
| Walton cottage  | 33 Harbor Hill Rd. | 1800          | 801-006-2-16    |
| L'Hommedieu house   | 35 Harbor Hill Rd. | 1858          | 801-006-2-17    |
| Charles Smith-Daingerfield<br>house   | 34 Harbor Hill Rd. | 1775          | 801-006-2-27    |
| Paul Wepy house   | Harbor Hill Road   | 1790          | 801-006-2-21    |
| Soper house and bottling works  | 46 Harbor Hill Rd. | 1840          | 801-006-2-20    |
| Bartlett house  | 50 Harbor Hill Rd. | 1900          | 801-004-2-6.1   |
| Capt. Selah Smith house   | 60 Harbor Hill Rd. | 1840          | 801-004-2-6.2   |
| Lottie Smith-Hubbard house  | 57 Harbor Hill Rd. | 1835          | 801-006-2-1     |
| Wetherill carriage house<br>(Stanford White)  | 18 Harbor Hill Rd. | 1895          | 801-006-1-8.6   |
| Wetherill house<br>(Stanford White)   |                    | 1895          | 801-006-1-6     |
| "Shore Cottage" - Sayre house<br>(Lawrence Grant White)   | 3 Harbor Hill Rd.  | 1913          | 801-006-1-6     |

|   |                 |         |                |
|---|-----------------|---------|----------------|
| ● Stone pump house (ruin)<br>(Stanford White)           | Harbor Road     | c.1890  | 801-006-1-31   |
| Trowbridge-Edwards house                                | 25 Harbor Road  | 1937    | 801-004-1-5    |
| Canning house   | 29 Harbor Road  | 1901    | 801-004-1-3    |
| Capt. Obadiah Smith -<br>Giacolone house                | Harbor Road     | 1860    | 801-0042-7.1   |
| Barton house  | Harbor Road     | 1890    | 801-004-2-8.1  |
| Olyphant-Lefferts house                                 | 39 Harbor Road  | 1917    | 801-004-1-8    |
| Emmet-Guenther house                                    | 43 Harbor Road  | c.1790  | 801-004-1-7    |
| Townsend-Benkard house<br>(William L. Bottomley)        | Harbor Road     | 1931    | 801-004-1-6    |
| Emmet-Bauer house                                       | 61 Harbor Road  | 1858    | 801-004-1-6    |
| ● Becket house<br>(William Huntington)                  | Harbor Road     | 1940    | 801-002-1-17.4 |
| "Sherrewogue" gates<br>(Stanford White)                 | Harbor Road     | 1895    | 801-002-1-19   |
| "Sherrewogue" 1895 alterations<br>(McKim, Mead & White) | at Arbor Lane   |         |                |
| Sculley house   | Harbor Road     | 1680    | 801-002-1-14.1 |
| "Thatch Meadow Farm" house                              | Harbor Road     | 1750    | 801-001-1-1.1  |
| C.C. Lawrence house<br>(J. Bradlwy Delehanty)           | Harbor Road     | 1952    | 801-001-1-3    |
| "East Farm" house                                       | Harbor Road     | 1710    | 801-001-1-7    |
| Hawkins store/Coen house                                | Harbor Road     | c. 1850 | 801-001-1-3    |
| Wicks-Webber house                                      | 178 Harbor Road | 1858    | 801-001-1-4    |
| ● "The Mallows"<br>(Charles Adams Platt)                | Harbor Road     | 1906    | 801-001-12     |

|   |                          |              |                |
|---|--------------------------|--------------|----------------|
| Emmet appurtenant buildings<br>(Stanford White)   | Harbor Road              | 1906         | 801-001-1-11   |
| C. Jayne house                                    | Harbor Road              | 1790         | 801-001-2-6    |
| Grist mill  | Harbor Road<br>(Rebuilt) | 1699<br>1751 | 801-001-1-28   |
| Blydenburgh house                                 | Spring Street            | 1844         | 801-001-1-16   |
| Schaefer house                                    | Spring Street            | 1873         | 801-001-1-28   |
| Williamson-Loretz house                           | 23 Mill Road             | 1837         | 801-001-2-33   |
| D.T. Bayles Superintendant's<br>cottage           | North Country Rd.        | 1890         | 801-001-2-33   |
| Sherry-Clarke house                               | 15 Rhododendron Dr.      | 1790         | 801-001-2-22.1 |
| "Windy Crest" - Creiger house                     | Rhododendron Drive       | 1800         | 801-001-2-24   |
| Davis house                                       | Saddle Road              | 1790         | 801-001-2-24   |
| Stable  | Saddle Road              | 19th c.      | 801-001-2-16   |
| Perry farm  | Shep Jones Lane          | 1895         | 801-003-3-5.2  |
| Freeman house                                     | 52 Three Sisters Rd      | 1900         | 801-006-2-31   |
| E.M. Jayne house                                  | 50 Three Sisters Rd      | 1890         | 801-006-2-30   |
| Old School<br>(Stanford White)                    | Three Sisters Road       | 1890         | 801-006-2-29   |
| Foy house   | Three Sisters Road       | c.1900       | 801-004-2-2-   |
| Perry house                                       | Three Sisters Road       | 1835         | 801-005-2-18   |
| Jerome-Sykes house                                | 18 Three Sisters Rd      |              | 801-005-2-12   |
| Snooks' house                                     | Three Sisters Road       | c. 1700      | 801-005-2-24   |
| Harbor Country Day School<br>(Lawrence S. Butler) | Three Sisters Road       | 1910         | 801-005-2-24.1 |

|   |                    |           |                |
|---|--------------------|-----------|----------------|
| Mills-Peck house                                    | Three Sisters Road | 1865      | 801-005-2-11   |
| Thornton house gates                                | Three Sisters Road | 1917      | at Farm Road   |
| Superintendent's house<br>(Peabody, Wilson & Brown) | Pin Oak Lane       | 1912      | 801-004-2-24   |
| Thornton garage                                     | Pin Oak Lane       | 1913      | 801-004-2-29   |
| Thornton guest house<br>(Peabody, Wilson & Brown)   | Pin Oak Lane       | 1911      | 801-004-29     |
| Abbott house  | Hitherbrook Road   | 1865      | 801-005-1-15   |
| Pabst-Rice house                                    | 14 Fifty Acre Road | 19th c    | 801-005-1-15   |
| Shields house; Butler estate                        | 50 Fifty Acre Road | c. 1890   | 801-005-1-25   |
| Brennan-iselin house<br>(Lawrence S. Butler)        | Fifty Acre Road    | c. 1920   | 801-007-3-16   |
| Josephus Carman-O'Keefe house                       | 54 Fifty Acre Road | mid-19 c. | 801-007-3-17   |
| Arvid Frank house                                   | Highland Avenue    | c. 1900   | 801-007-3-16   |
| Flinn house/St. James Rectory                       | Highland Avenue    | c. 1890   | 801-007-3-17   |
| E.W. Smith house                                    | Highland Avenue    | 1840      | 801-007-3-12   |
| Tanaka-Cassidy house                                | Highland Avenue    | c. 1880   | 801-007-3-14   |
| Allister Morris house<br>(Lawrence S. Butler)       | Timothy Lane       | mid-1920s | 801-007-3028   |
| Kerr house<br>(Lawrence S. Butler)                  | Timothy Lane       | mid-1920s | 801-007-3-27   |
| Jonas Mills house                                   | North Country Road | c. 1750   | 801-005-1-24   |
| Jonas Mills bar                                     | North Country Road | 1789      | 801-005-1-23   |
| "Mills Pond House"<br>(Calvin Pollard)              | North Country Road | 1838      | 801-005-1-34.1 |
| "Mills Pond House" barn                             | North Country Road | c. 1705   | 801-005-1-34.8 |

|  |                       |         |                 |
|--|-----------------------|---------|-----------------|
| "High Hedges"  | North Country Road    | 1880    | 801-005-1-34,10 |
| Lawson house<br>(alterations - Lawrence<br>S. Butler)  | North Country Road    | 1855    | 801-005-2-30    |
| "Deepwells"<br>(from Minard Lafever book)              | North Country Road    | 1847    | 801-007-4-3     |
| "Timothy Stable"<br>(Lawrence S. Butler)               | North Country Road    | 1910    | 801-007-3-22    |
| "Timothy House"<br>(alterations-Lawrence S.<br>Butler) | North Country Road    | c. 1800 | 801-007-3-29    |
| "Crooked Cottage"                                      | North Country Road    | 1900    | 801-007-3-35    |
| G.H. Smith house                                       | North Country Road    | c. 1890 | 801-007-3-32    |
| E.N. Smith house                                       | North Country Road    | 1908    | 801-007-3-31    |
| Wicks house  | North Country Road    | 1886    | 801-007-3-24.1  |
| Finn house   | 441 North Country Rd. | c. 1900 | 801-007-1-3     |

Important archeological sites in the Village of Head-of-the-Harbor include:

|                             |   |
|-----------------------------|---|
| Site of Matthew Smith house | Moriches Road, Southeast corner Taylor Lane           |
| Site of Joseph Smith house  | Harbor Hill Road near entrance to Bartlett House      |
| Indian shell heaps          | East Side Harbor Hill Rd. adjoining large tidal marsh |
| Jacob's well                | Bartlett Marsh  |

Family cemeteries:

|                      |  |
|----------------------|--|
| Matthew Smith        | South side Moriches Road, just west of Taylor Lane                     |
| William Smith/Carmen | West side of Harbor Road near Wetherill house barn                     |
| Charles Smith        | North of Harbor Road between Three Sisters Road and Stony Brook Harbor |
| Adam Smith           | At "Sherrewogue;" see above  |

|       |   |
|-------|---|
| Mills | West of Mills Pond (Extensive; 80 graves) |
|-------|---|

The following natural areas are considered of importance to the Village of Head-of-the-Harbor:

|                                |   |   |
|--------------------------------|---|---|
| Bartlett Inlet and Marsh       | Harbor Road                                     | 801-004-2-6                                 |
| Hitherbrook Pond               | Harbor Road                                     | 801-005-1-15                                |
| Thatch Meadow<br>Scenic Vistal | Harbor Road                                     | 801-001-1-1.1                               |
| Kettle holes                   | Harbor Road<br>Moriches Road<br>Fifty Acre Road | 801-001-1-25<br>801-007-3-7<br>801-007-3-16 |
| "East Farm" preserve           | Shep Jones Lane                                 |   |

**6. Zoning**

Maps 4A and 4B show the current zoning in both Villages. In Nissequogue, there are two residential zones, R-2 (2 acres) and R-1 (1 acre). The R-2 district covers most of the Village. The R-1 zone is confined to the Town beaches and the dwellings on East Long Beach Road. Although the R-2 district has much more area than the R-1 district, there are only 25 lots which do not conform to the prevailing zoning compared to 45 lots in the R-1 district. Many of the non-conforming lots in the R-1 district are located in the flood hazard zone.

Head-of-the-Harbor has three residential districts. Nearly all of the Village is zoned for residences on at least two acres of land. The only areas where residences are permitted on one acre or more are south of Route 25A and south of Three Sisters Road.

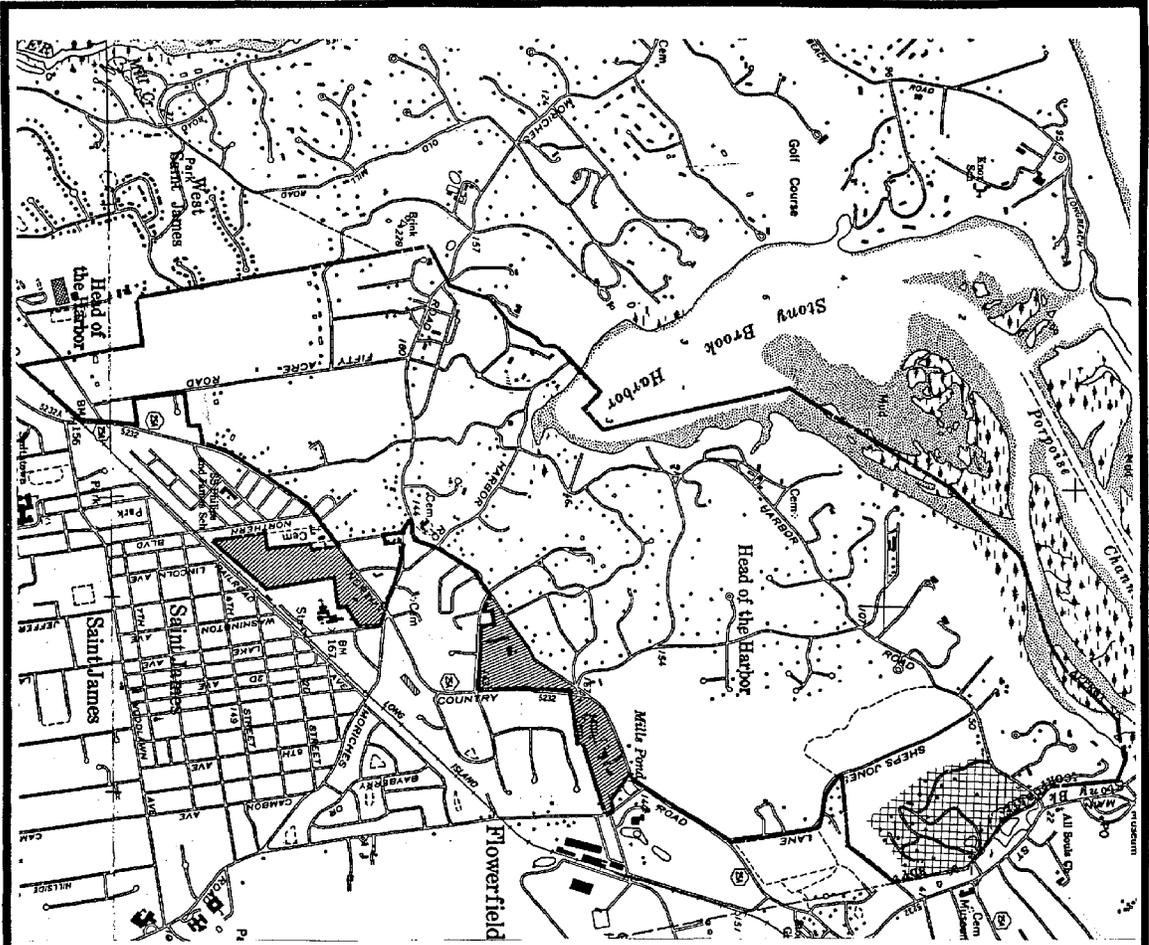
The zoning in the Villages is compatible with the physical constraints of the land. Steep topography, high water tables in some areas, and poorly drained soils limit the ability of the land to absorb intensive development without the construction of public sewer and water. The physical constraints, and the limited population of the Villages also make the construction of public sewer and water economically infeasible.

The existing zoning classifications protect surface and groundwater quality in the Villages in the absence of public infrastructure. An additional benefit is that the rural nature of the Villages is maintained, which protects the integrity of important historic and archeological resources.

**C. ENVIRONMENTAL CONDITIONS**

**1. Soils, Topography and Erosion**

The north shore of Long Island, where the Villages of Head-of-the-Harbor and Nissequogue are located, is characteristic of a glacial terminal moraine: occasional scattered transported boulders may be found, but bedrock formations are lacking. Generally the soils of Long Island include much sand and gravel, with frequent streaks of clay, sometimes in extensive layers; where steeply sloped they are often unstable. The most significant soil types in the coastal area are Carver, Riverhead, and Haven.



LEGEND:

A Residential (2A)

A-1 Residential (2A) -- less restrictive setbacks

B Residential (1A)

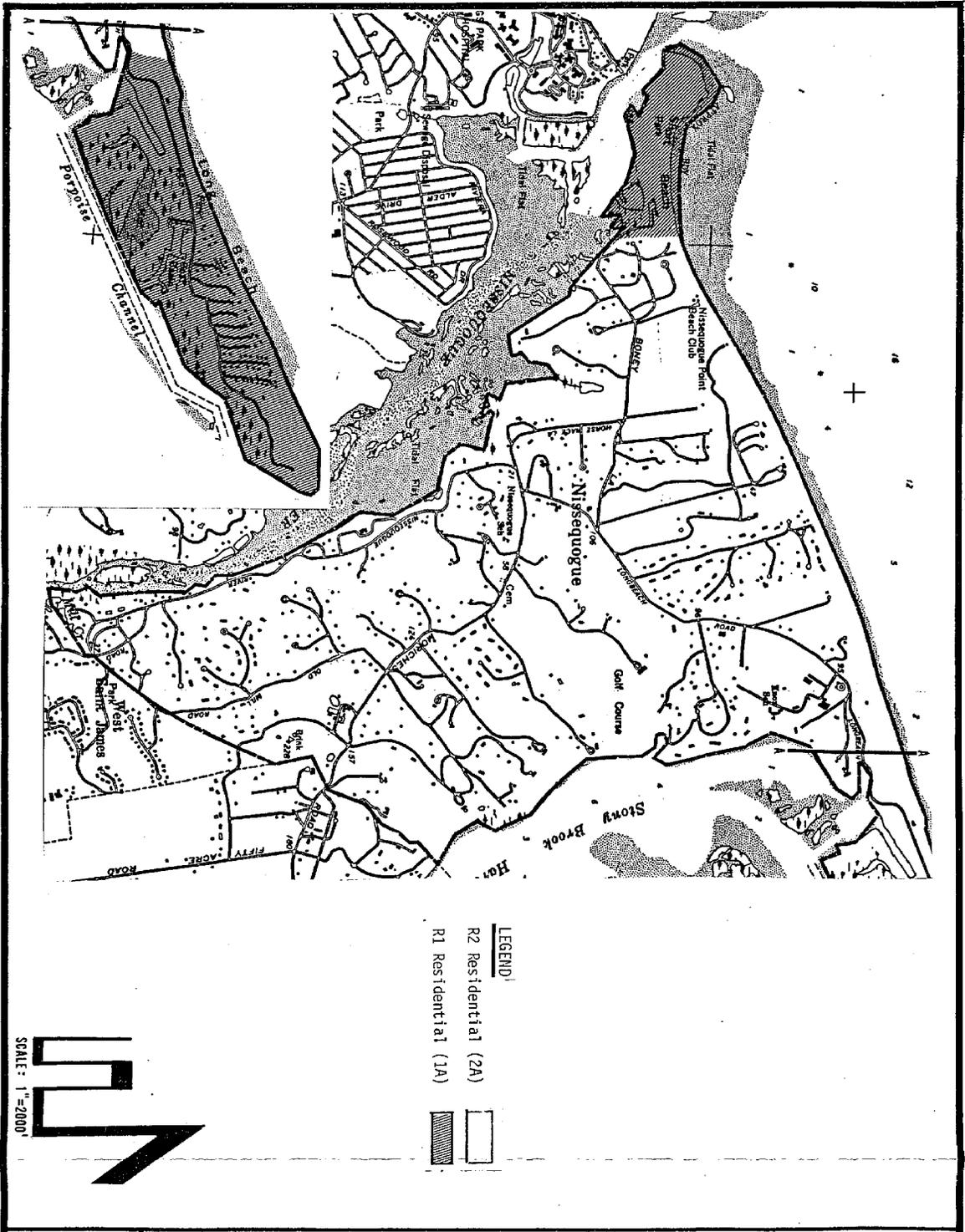
SCALE: 1" = 2000'

# MAP 4A

## Existing Zoning Local Waterfront Revitalization Program Village of Head-of-the-Harbor

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: HA-82-AA-D-CZ068  
Date of Preparation: February 1987



**MAP 4B**

# Existing Zoning

## Local Waterfront Revitalization Program

### Village of Nissequogue

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-82-AA-D-CZ069  
Date of Preparation: February 1987

In both Villages, Carver soils are found in the steep drainage swales leading to Stony Brook Harbor and to the Nissequogue River. This soils group is more extensive in Nissequogue than in Head-of-the-Harbor. In Nissequogue, Carver soils encompass not only major drainage swales, but also the generally steep slopes which border the harbor and the river. Carver soils are the poorest--excessively drained, coarse-textured, with a very low moisture capacity and a very low natural fertility. Permeability is rapid throughout, leading to droughtiness and to poor filtering ability which could pose a water quality hazard. The major drainage swales and slopes in excess of 25% should remain undeveloped, with undisturbed natural vegetation in order to reduce the potential for surface water quality degradation.

Riverhead soils are deep, well-drained, moderately coarse-textured and found in a mantle of sandy loam or fine sandy loam over thick layers of coarse sand and gravel. These soils have moderate to high available moisture capacity and good internal drainage. Permeability is moderately rapid in the surface layer and subsoil layer, but very rapid in the substratum. Natural fertility is moderate. Riverhead soils generally pose slight to moderate constraints on development, related to slope. Riverhead soils are relatively extensive in Head-of-the-Harbor, where they tend to be located in a band stretching from south to northwest along the Village boundary line. In Nissequogue, Riverhead soils are located on the ridge which forms the central spine of the Village.

Haven soils are deep, well-drained, of medium texture, formed in a loamy or silty mantle over stratified coarse sand and gravel. They have a high to moderate available moisture capacity, good internal drainage, and permeability which is moderate in the upper layers and rapid in the substratum. Haven soils are the most fertile within the Villages. They tend to be found in the upland areas. Haven and Riverhead soils should be conserved and stockpiled if the land is developed.

Other soils include Sudbury sandy loam, Raynham loam, and Berryland mucky sand, all commonly associated with freshwater wetlands and high water table areas. These, with Plymouth sand and loamy sand, often associated with Carver soils, are unsuitable for development.

Within the Villages there are also areas of beach, dune, escarpment or sandy bluff as well as tidal marshland; the last is extensive. All these soils are extremely susceptible to erosion and to developmental impacts even at moderate levels of use. They require careful protection to maintain their natural capacity to absorb and reduce the effects of coastal storms and flooding. This, in turn, protects property in the Villages from storm damage.

The topography of both Villages is characterized by high land--around 200 to 215 feet above sea level---dropping off sharply towards Stony Brook Harbor. This configuration is characteristic of a glacial moraine, with the harbor representing a giant kettlehole. Both Head-of-the-Harbor and Nissequogue, then, have in profile a ridge, and land descending towards water. In Nissequogue, the ridge is approximately central; Moriches Road, Horse Race Lane and Boney Lane run along its crest; and an intersecting ridge which follows the course of the Nissequogue River meets it at River Road. The ridge above the river is, on the whole, the steeper. In some areas along Nissequogue River Road, near Steep Bank Road, slopes of 50% are common. In one area, an embankment has a slope of 100%. Head-of-the-Harbor, by contrast, has the ridge approximately along its southern western and eastern boundaries.

Another distinguishing feature of Nissequogue are the bluffs along Smithtown Bay. Beginning just east of the Short Beach Town Park, small bluffs (less than 10 feet high) or dunes occur. Moving east, these bluffs rise gradually to 100 feet and plunge to the beach below at a 100 degree angle of repose. The bluffs again decrease in height toward the Long Beach peninsula.

Much of the land at the top of the ridge, as along Moriches Road and North Country Road (State Route 25A), is flat or gently sloping. This area was the first to be settled and cultivated, and much of the most fertile soil is found 'upland'. Flat areas along the eastern riverbank and the shores of Stony Brook Harbor were also farmed by early settlers. From the mid-18th to the mid-19th century, woodcutting was a major economic activity, and nearly all the virgin forestland within the Villages was cleared; but woodcutting before the invention of the chain saw did not involve stripping -- a proportion of trees was always left to stabilize the steeper slopes. Today, much of what was new growth a century ago or more is lofty hardwood forest. Twenty five years ago the greater part of the Villages was undeveloped forested land; today most of the land in the Villages is partially forested, and undisturbed forest can be seen chiefly in preserved tracts, such as those in each Village owned by the Nature Conservancy.

Tree cover, and its understory of shrubs, vines, and other vegetation, is especially important on the steep slopes in the Villages because these slopes are almost entirely composed of Carver soils---coarse, sandy, excessively drained, non-moisture retentive, and easily destabilized when deprived of their natural vegetation.

Until recently, steep slopes in the Villages were almost entirely left undisturbed. As more easily developed building sites have been used up, those with steep slopes and other inherent problems have become more attractive, prompting the enactment of ordinances aimed at placing special constraints upon steep-slope building.

In Head-of-the-Harbor mandatory building site setbacks from property boundaries have been made flexible on steep slopes (or where a swale exists) so that least damaging sites may be used, access gradients minimized, impermeable paved areas controlled and limited, and alterations in natural drainage patterns forbidden. The aim is to minimize pollutants reaching surface waters and groundwater, and to maintain the natural hydrological system. Watershed management is new to the Villages, but is developing under the guidance of the Suffolk County Planning Department.

**2. Coastal Erosion Hazards Areas/Natural Protective Features**

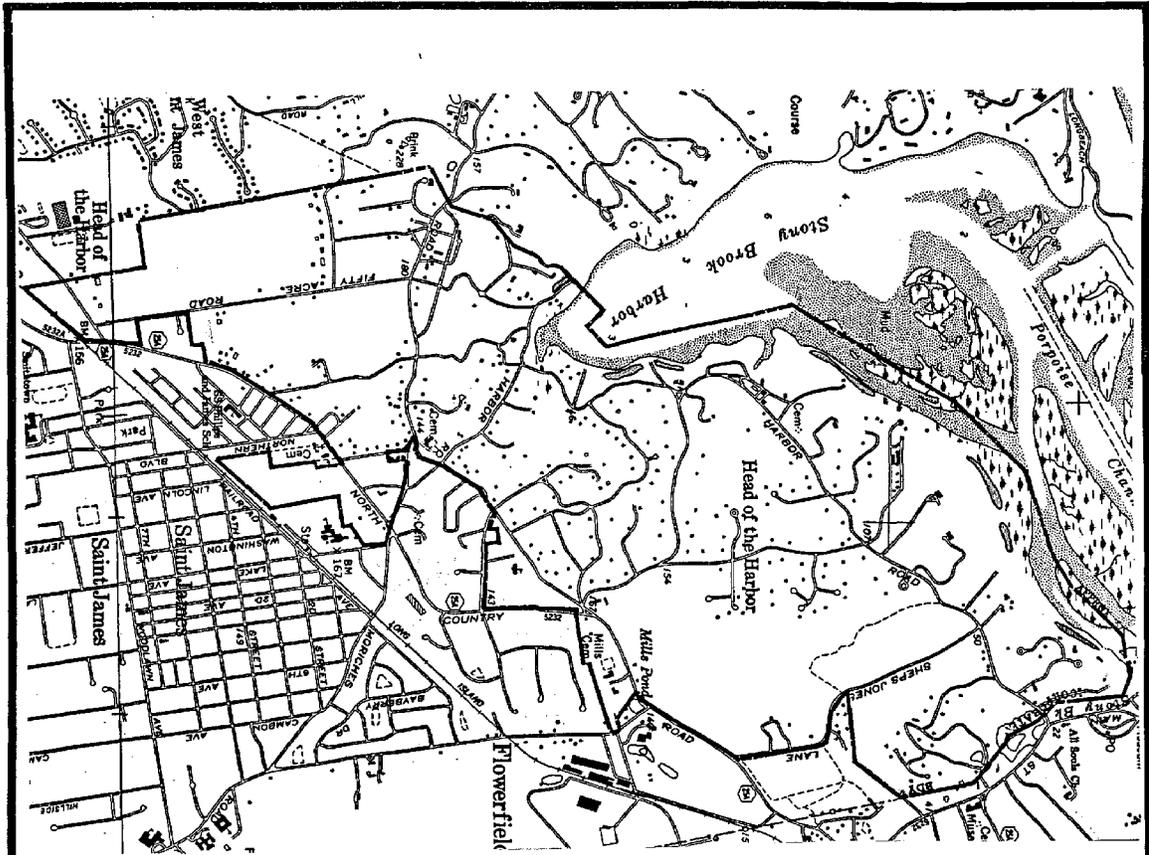
Most of the coastal erosion hazard areas as defined by the Coastal Erosion Hazard Areas Act (ECL, Article 34) are located in the Village of Nissequogue. Head-of-the-Harbor faces only the sheltered waters of Stony Brook Harbor. The shores of the harbor offer few bluffs except at the two extreme ends (the end of Long Beach Road in Nissequogue just before the sand spit begins, and also at the confluence of the harbor and Stony Brook Creek.) At the southern end of the harbor a short stretch of bluffs---200 or 250 linear feet---rise above the tidal marshland, which serves to protect the bluffs against wave action. No other bluffs can be identified around the harbor unless the definition is applied to shore-margins of two feet in height or less.

Nissequogue, however, has bluff areas not only at the Long Beach Road/sand spit juncture, but on the sand spit itself, and these latter face not the sheltered waters of the harbor, but Smithtown Bay/Long Island Sound. Bluff erosion in this area is continuous.

The bluffs are recognized as imposing severe constraints upon development. A setback of 100 feet is required in Nissequogue and 50 feet is required in Head-of-the-Harbor for any structures near bluffs. An increase to a minimum of 150 feet is being considered by both villages. Further revision to bluff erosion prevention measures to bring them into conformity with Article 34 is being discussed.

The beaches fronting Smithtown Bay in Nissequogue have accreted slightly or are stable, according to "Erosion of the North Shore of Long Island", prepared by the Marine Sciences Research Center. The sand is supplied by littoral drift and by erosion of the bluffs on Smithtown Bay. Despite the fact that the beach areas are stable, they can be undermined by inappropriate alteration or use of erosion structures. Consequently, development should be restricted to prevent inappropriate use of beach areas.

Dunes found on Short Beach are fragile structures which can be damaged by insensitive use. Both pedestrian and vehicular traffic can destroy the stabilizing vegetation and shape that makes dunes important natural protective features and habitats for endangered and threatened terns. (See Maps 5A and 5B)



LEGEND  
 Bluffs not designated as  
 CEHAS



SCALE: 1" = 2000'

**MAP 5A**

**Coastal Erosion Areas  
 Local Waterfront Revitalization Program  
 Village of Head-of-the-Harbor**

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.  
 Federal Grant Number: HA-82-AA-D-CZ068  
 Date of Preparation: February 1987



LEGEND:  
 Coastal Erosion Hazard Areas  
 Identified by NYS DEC pursuant to 6 NYCRR 505



**MAP 5B**

# Coastal Erosion Areas

## Local Waterfront Revitalization Program

### Village of Nissequogue

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-82-AA-D-C2063  
 Date of Preparation: February 1987

### 3. Surface and Groundwater Resources

The Villages of Head-of-the-Harbor and Nissequogue lie chiefly in a shallow discharge zone, with some portions in a deep aquifer recharge zone. The flow of surface and subsurface waters from all of Head-of-the-Harbor is to Stony Brook Harbor, with the exception of a small area on the extreme southwestern edge of the Village which sends water into the drainage system of the Nissequogue River. All surface and subsurface flow in the Village of Nissequogue moves towards the river, or to Smithtown Bay (Long Island Sound), or to Stony Brook Harbor.

Development, particularly within the shallow discharge zone, will have the greatest impact upon surface water if it is dependent upon subsurface waste disposal systems. Work done by the Suffolk County Planning Department has shown that subsurface flow from upland areas to areas adjacent to the harbor have been high. Development in deep aquifer recharge zone has the greatest affect on groundwater quality. Impacts upon existing water wells depend upon the type of activities taking place in the area in conjunction with the direction of groundwater flow.

All of Nissequogue, and almost all of Head-of-the-Harbor, depend upon private wells for water supply, as the public water system extends only to short sections (chiefly boundary) of roads in Head-of-the-Harbor, and does not reach Nissequogue at all. A plentiful supply of good quality well water has been available to the present time. An abundance of groundwater is indicated by the extensive areas in both Villages in which the water table is very high, and the presence of many surface springs is very evident. Until recently, good water was obtained from shallow wells. As increasing demand has been placed upon these resources the supply has ceased to be sufficient and in some areas, the water quality has deteriorated.

There are several water quality problems existing in the Villages, one of which is salt water intrusion. Salt water intrusion has become more frequent as more wells are drilled in sensitive locations (as along the Long Beach sand spit). Drilling deep wells (to depths more than 200 feet below sea level) presumably would solve the problem, although the permanence of the solution cannot be guaranteed. Other forms of pollution in groundwater supplies have been identified at sites on or closely adjacent to farms in Head-of-the-Harbor, where fertilizer and insecticide residues have been introduced over a considerable period of time, producing chemical traces, which may be very lasting. Runoff pollution is also increasing. Runoff affects the quality of the coastal waters by the introduction of chemical products: road salt, fertilizers, insecticides, herbicides. Some of the contaminants in runoff will be left behind in that percentage of the water which does not run off, but sinks into the soil, most of which is very permeable. It is difficult to control runoff pollution by direct action, but intensive education programs for local residents showing landscaping alternatives to

cultivating lawns which demand heavy chemical applications, and to using chemical products where others exist, can do the job.

Finally, leachate contamination from cesspools and septic tanks pose serious health problems by introducing E.coli bacteria, heavy metals, and other pollutants into surface and groundwaters. This can be controlled by limiting the intensity of development. Nearly all of each Village is zoned at a 2-acre minimum lot size for one-family dwelling, which puts an upper limit upon development. At this density, contamination of groundwater from sewage disposal systems should not pose a severe threat, but the siting, construction standards, and maintenance of septic tanks and cesspools is important in reducing the potential for contamination.

### Water Quality

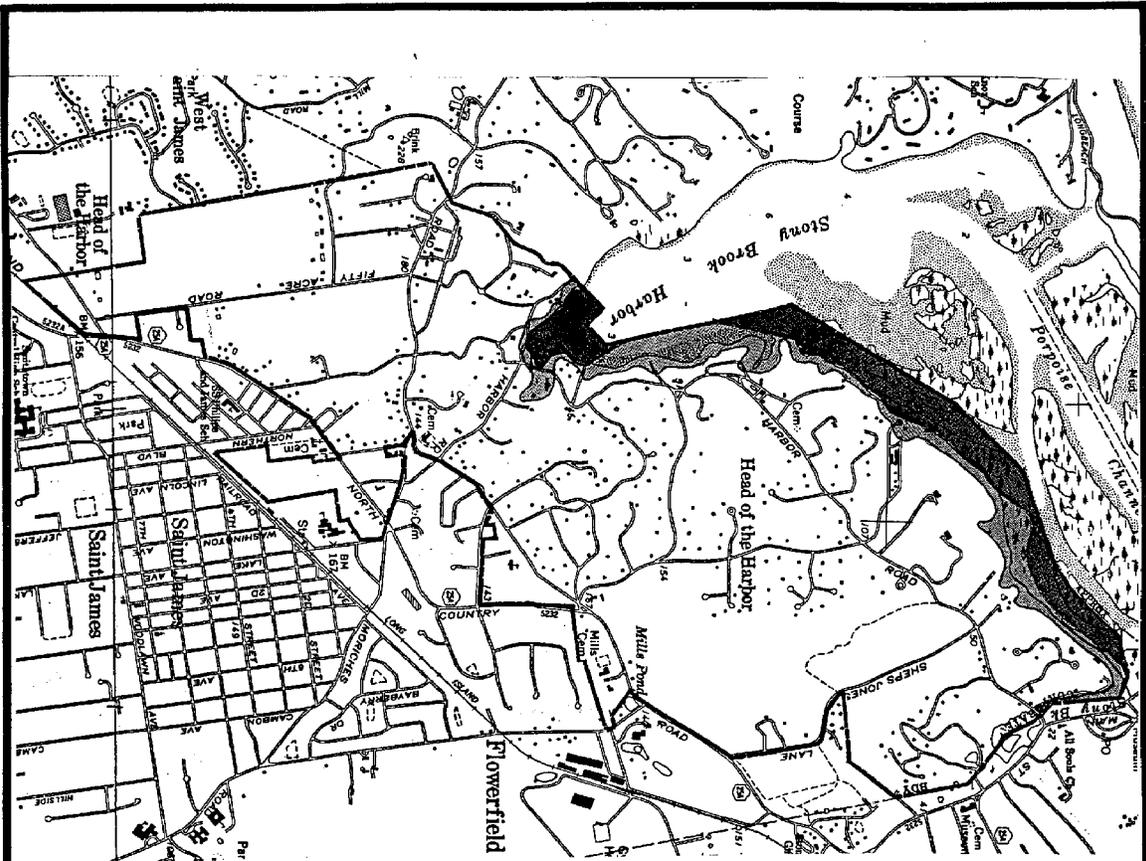
All fresh and saline surface waters in the coastal area have been classified in terms of water quality by the NYS Department of Environmental Conservation. With the exception of Mill Pond and the Stony Brook on the eastern boundary line of the Village of Head-of-the-Harbor and the Town of Brookhaven, which are classified C, all other fresh surface waters are classed D. These surface waters are unnamed ponds scattered throughout the Villages. A "C" classification means that the waters are best suited for the propagation, survival and growth of fish, other aquatic life, and wildlife. Secondary contact recreation (boating) is also appropriate. Waters classified D are too polluted to support fish and wildlife populations.

The saline waters of the coastal area, which encompass Stony Brook Harbor and the estuarine portions of the Nissequogue River are classified SA and SC, respectively. The SA classification indicates that Stony Brook Harbor is clean, and is suitable for harvesting shellfish and for primary contact recreation. The extreme southernmost end of Stony Brook Harbor is closed to shellfishing due to excessive E.coli bacteria levels. The Nissequogue River, classified SC, is closed to shellfishing, although it is suitable for secondary contact recreation and finfishing. It is believed that stormwater runoff and contaminated groundwater seeping into the river bottom are the principal sources of water pollution.

### Flood Prone and Flood Hazard Areas

Flood hazard and flood prone areas in the Villages, as determined by the Federal Emergency Management Agency, are shown on Maps 6A and 6B.

Flooding is not extensive in either Village because topography confines flood waters to areas immediately adjacent to the coastal waters, with only minor intrusions inland along marsh systems or coastal depressions. For this reason, areas of flooding are coincidental with beaches and with tidal and freshwater wetlands.



**LEGEND**

V Zones (100 year Flood with high velocity wave action)

A and B Zones (areas of 100 year Flood with minor areas of less frequent flooding)



SCALE: 1" = 2000'

**MAP 6A**

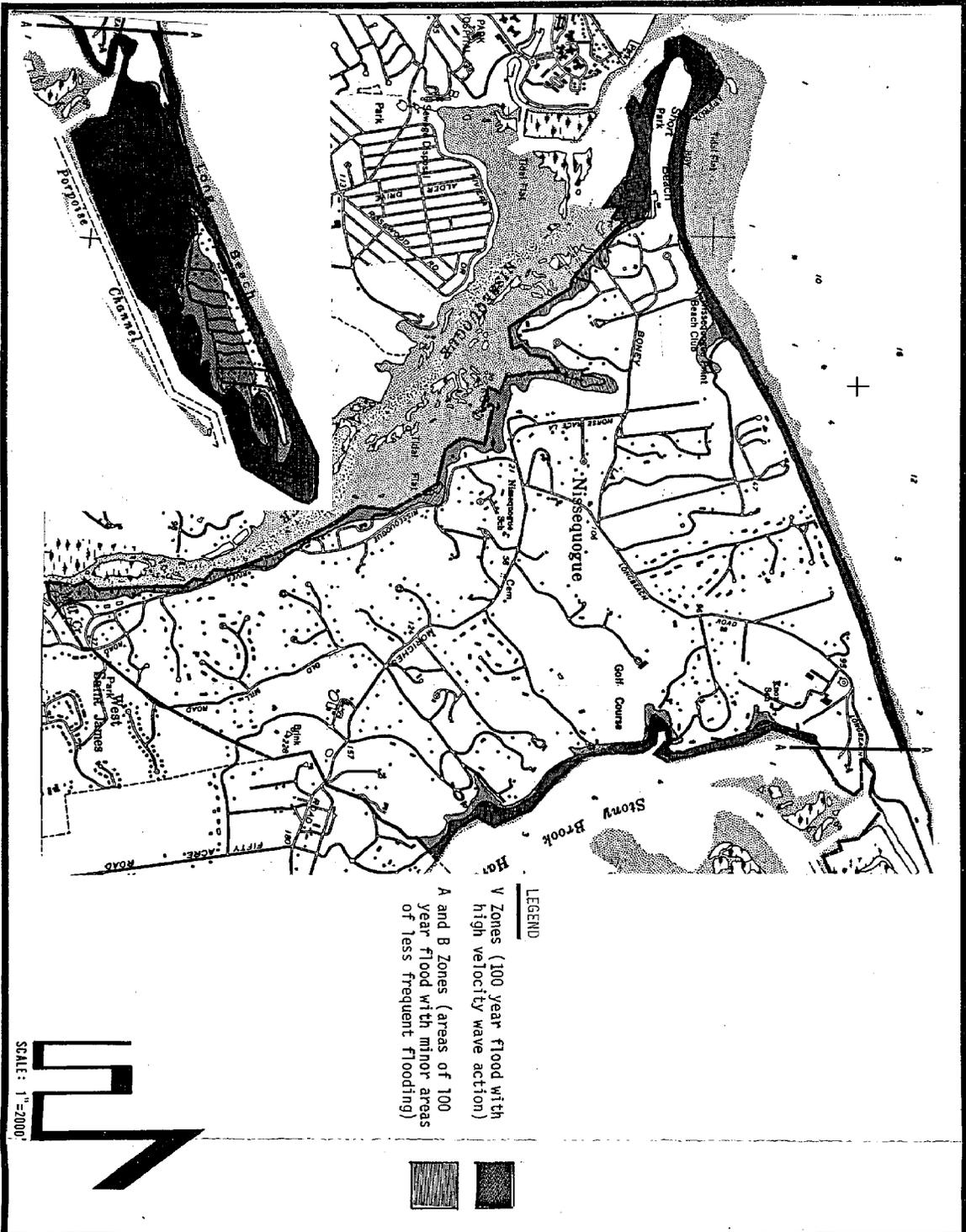
# Flood Hazard Areas

## Local Waterfront Revitalization Program

### Village of Head-of-the-Harbor

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-82-AA-D-CZ068  
Date of Preparation: February 1987



**MAP 6B**

# Flood Hazard Areas

## Local Waterfront Revitalization Program

### Village of Nissequogue

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: HA-82-AA-D-CZ063  
Date of Preparation: February 1987

Base flood elevations in areas of 100 year floods (A- Zones) average 12 feet. Areas subject to wave action (V- Zones) during a flood are located at the mouth of the Nissequogue River, encompassing Short Beach. The V-Zones extend along the beaches of Smithtown Bay and include the Long Beach peninsula. The shoreline of Stony Brook Harbor also contains V-Zones. Base flood elevations in these areas average 14 feet. Aerial photos show that there are no structures within the V-Zones of either Village. This is due primarily to the slow pace of development that the Villages have experienced until recently, and to the fact that the V-Zones are also tidal wetlands. Aerial photos also show that the only structures currently located within areas of 100 year floods are on the Long Beach peninsula.

The Long Beach peninsula is exposed to the greatest flood hazard. Severe northeasterly storms, especially if they strike behind an incoming tide, can send water over the low-lying parts of the narrow peninsula. These potential breach points do not include residential structures since these are located on higher sand bluffs.

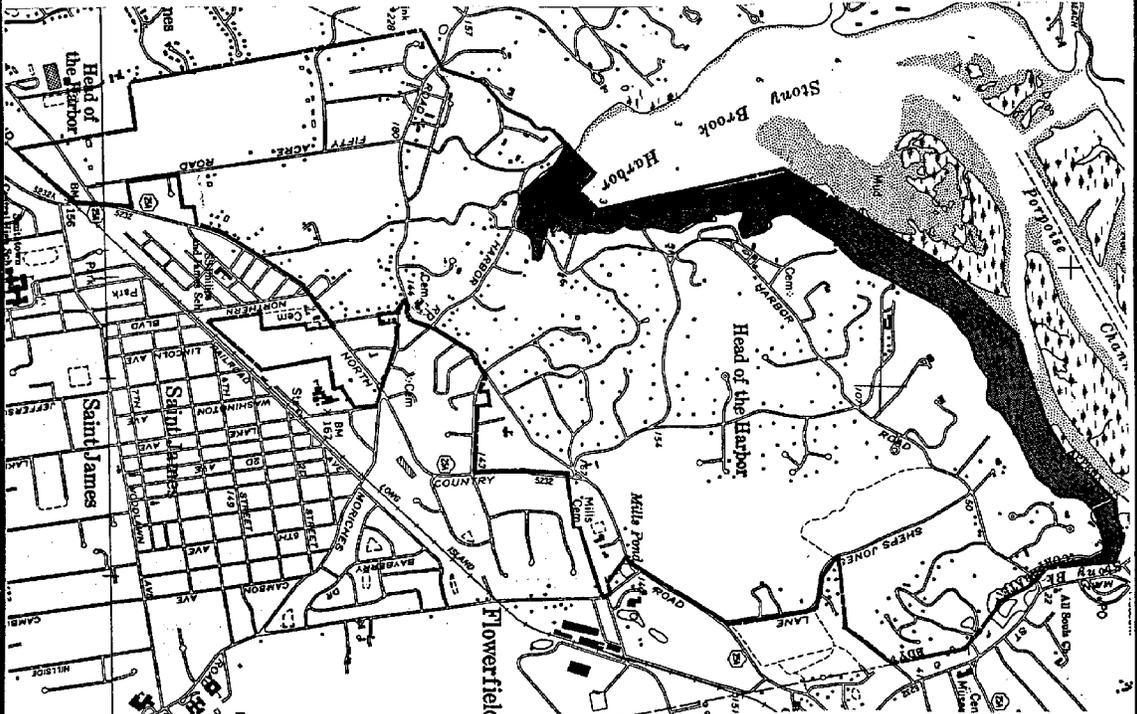
In Head-of-the-Harbor, the area most frequently inundated lies away from the coastal margin, at the southeastern edge of the Village, where Mills Pond, a freshwater pond, occasionally floods in the spring after heavy rains or an unusually rapid thaw. Buildings near the pond are all elevated well above the flood water level. Very heavy rains especially accompanied by the spring tides will occasionally cause road flooding at the southern end of Stony Brook Harbor where the freshwater Bartlett Marsh drains into the harbor. The cause is an inadequate culvert which replaced a small bridge. The culvert should be enlarged or replaced with a bridge.

Building within the 100 year flood plain is permitted in the Villages only if it is carried out in compliance with local flood hazard regulations, modeled on federal standards.

#### Tidal and Freshwater Wetlands

In Nissequogue and Head-of-the-Harbor, tidal wetlands dominate the coastal area (Map 7A and 7B). Tidal wetlands constitute one of the most productive of ecologic zones, serving as a nursery for fish and shellfish, and providing food and shelter for wildlife. The tidal wetlands serve to control flood and stormwaters, to trap sediment and to act as purifiers of runoff. The wetlands are also valuable for their scenic, open space, and educational benefits.

Tidal wetlands contain a number of different zones classified by vegetation and biological productivity. The intertidal marsh (IM) and coastal fresh marsh (CFM) are the most biologically productive of all tidal wetlands areas. The coastal fresh marsh is uncommon in New York State and is found mostly where freshwater runoff is backed up by daily tides. They are generally bordered by rushes, cattails and brackish water cordgrass, as well as pickerel weed and marsh roses.



Reference should also be made to the NYS Department of Environmental Conservation's final Freshwater Wetlands map.



SCALE: 1" = 2000'

LEGEND  
Tidal Wetlands



**MAP 7A**

# Wetlands

## Local Waterfront Revitalization Program

### Village of Head-of-the-Harbor

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended. Federal Grant Number: NA-B2-AA-D-C2068 Date of Preparation: February 1987



Reference should also be made to the NYS Department of Environmental Conservation's final Freshwater Wetlands map.

LEGEND  
Tidal Wetlands



**MAP 7B**

# Wetlands

## Local Waterfront Revitalization Program

### Village of Nissequogue

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-82-AA-D-C2063  
Date of Preparation: February 1987

The coastal fresh marsh is highly productive and has extremely high value for wildlife. Since they receive twice-daily tidal flushing, the vegetation and detritus are readily transported to adjacent waters for use in the estuarine food chain. Their location also makes them the most effective wetlands zones for flood, hurricane, and storm protection. Both their intertidal location and their highly productive nature makes them among the most effective wetland zones for cleansing ecosystems and for absorbing silt and organic material. Because of these high values and their sensitive location at the land-water interface, intertidal and coastal fresh marshes must be stringently protected and preserved. Even small portions of these zones are critically important resources. Consequently, only very limited types of land use and development are compatible with these areas.

High marsh and salt meadow (HM) tidal wetlands constitute an extensive zone of the salt marshes that receives only occasional tidal flooding coincident with extreme lunar tides and occasional storms. These areas are not as productive as intertidal marshes, but they are very important in the marine food chain. Because of their size and location, salt marshes are as important in the absorption of silt and organic material and storm water control as intertidal marshes. Furthermore, because they are located generally in such a way that they are the first tidal wetland area to receive runoff and other materials from the land, they have an important role in cleansing ecosystems. Because these wetlands are usually located adjacent to intertidal marshes and because their values are similar, these areas must also be stringently protected.

Tidal wetlands also include areas classified as shoals, bars, flats and littoral zones. These areas vary in their level of ecological productivity, but are important for flood and hurricane control. Since the jurisdiction of the Village of Nissequogue is defined by mean high water, it does not contain any of these features. Head-of-the-Harbor's jurisdiction extends 500 feet into Stony Brook Harbor, so it does contain some shoals, bars, and flats within the littoral zone.

In the Villages, tidal wetlands are extensive. They stretch around Stony Brook Harbor and into the estuarine portions of the Nissequogue River. Because the shoreline of the harbor and the river are still in their natural state, a large proportion of the highly productive intratidal and coastal fresh marshes remain. Loss of marshes has resulted from dredging rather than development. Dredging operations over the past twenty years have destroyed approximately 100 acres of wetlands in Stony Brook Harbor. Significant marsh and delta areas at the mouth of the Nissequogue River were destroyed through direct removal or spoil disposal during channel dredging in 1960.

Around Stony Brook Harbor, the tidal wetland complex is particularly valuable because it includes areas of coastal fresh marsh. At the extreme southern end of the harbor is an area known as the Bartlett Marsh. The Bartlett Marsh includes an extensive and varied upland, a spring-fed pond, an extensive system of fresh water springs, a very small brook, and approximately ten acres of completely undisturbed wetland in addition to ten acres of upland. It provides habitat for a wide variety of birds and mammals.

There are also isolated coastal fresh marshes along the banks of the Nissequogue River which provide food, shelter and fresh water for wildlife. Many very small freshwater wetlands supported by countless freshwater springs ring the harbor and line the banks of the Nissequogue River. Most of these freshwater wetlands are only a fraction of an acre in size, but their undisturbed nature, their rich vegetation, and their supply of drinking water as well as food for animals make them important components of the ecosystem.

Current threats to tidal wetlands include potential intrusion by development, both public and private, road runoff pollution, groundwater pollution, and increasing boat traffic and human access.

The tidal wetlands are vital to the characters of the Villages' waterfront. They create and maintain the open vistas in the Nissequogue River in Stony Brook Harbor. They also help to ensure the availability of breeding and nursery areas for fish, shellfish and wildlife. Consequently, the Villages are very concerned about their preservation.

#### 4. Significant Fish and Wildlife Habitats

All wetlands within the Villages of Nissequogue and Head-of-the-Harbor support valuable fish and wildlife habitats. Three coastal fish and wildlife habitats of statewide significance have been designated in the coastal area. They are the Nissequogue River, the Nissequogue Inlet Beaches, and Stony Brook Harbor (Maps 8A and 8B).

##### Nissequogue River

The Nissequogue River forms the western boundary of the Village of Nissequogue. It runs north through the Town of Smithtown and empties into Smithtown Bay. The character of the river varies from narrow, enclosed stretches near its headwaters to a broad estuarine mouth. The significant habitat encompasses about 750 acres, extending 7.6 miles. The habitat includes the tidal



**LEGEND:**  
 Fish and Wildlife Habitats of Statewide  
 Significance:  
 Stony Brook Harbor

SCALE: 1" = 2000'

**MAP 8A**

# Fish & Wildlife Habitats

## Local Waterfront Revitalization Program

### Village of Head-of-the-Harbor

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-82-AA-D-CZ068  
 Date of Preparation: February 1987



**LEGEND:**  
 Fish and Wildlife Habitats of Statewide  
 Significance:  
 Nissequogue River and  
 Stony Brook Harbor  
 Nissequogue Inlet Beach



**MAP 8B**

# Fish & Wildlife Habitats

## Local Waterfront Revitalization Program

### Village of Nissequogue

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-R2-AA-D-CZ063  
 Date of Preparation: February 1987

portion of the river which contains mud flats, salt marshes, and freshwater wetlands, bordered by undeveloped woodlands and very low density residential development in the Village. Portions of the Nissequogue River located below mean high water are owned by the Village of Nissequogue, and are being held for conservation purposes.

The Nissequogue River is one of four major rivers on Long Island. The coastal segment of the river remains in a relatively undisturbed condition, and has been officially designated by New York State as a "Scenic River" and "Recreational River" (under Article 15, Title 27 of the Environmental Conservation Law) to encourage preservation and restoration of its natural scenic and recreational qualities. The Nissequogue River also represents one of the largest coastal wetland areas on the north shore of Long Island.

This habitat is important to a great diversity of fish and wildlife species throughout the year. During the spring and summer months, the Nissequogue River provides suitable nest habitat for herons, egrets, Canada goose, mallard, black duck, spotted sandpiper, marsh wren, clapper rail, belted kingfishers, and many passerine bird species. This biologically productive area also serves as an important feeding area for other species nesting in the vicinity, including endangered (E) or threatened (T) species such as least tern (E), common tern (T) and osprey (T) and for a variety of shorebirds and waterfowl during spring and fall migrations.

Endangered species are any species which meet one of the following criteria:

- (1) are native species in imminent danger of extirpation or extinction in New York; or
- (2) are species listed as endangered by the United States Department of the Interior in the Code of Federal Regulations (50 CFR part 17 [see section 182.1(a)(1) of this Part]).

Species of special concern are any native species for which a welfare concern or risk of endangerment has been documented by the Department of Environmental Conservation.

The Nissequogue River is locally significant as a waterfowl wintering area, supporting concentrations of black duck, mallard, Canada goose, and mute swan.

In addition to having significant bird concentrations, the Nissequogue River is a productive area for finfish, shellfish, and other wildlife. The river supports a significant sea-run fishery for brown trout in the fall (September - November, primarily), the only such fishery tributary to Long Island Sound. Other fish

species which use the Nissequogue River as a nursery or feeding area (from April-November, generally) include Atlantic silverside, menhaden, bluefish, striped bass, scup, winter flounder, and blackfish. These fisheries support heavy recreational fishing use, of regional significance. Access to the area for fishing is available from Sunken Meadow State Park west of the river mouth/inlet; and from Short Beach Town Park east of the inlet. Across the river, in Smittown, major access points for fishing and for active recreation are found, including the Kings Park bluff marina area. The river also contains abundant shellfish resources, including hard clams, soft clams, and American oysters, but these waters are not certified for harvesting shellfish. Diamondback terrapin (SC) nest along the sandy shores of the river near the mouth and use the salt marshes for cover and feeding.

The continued productivity of the Nissequogue River habitat depends upon maintaining and improving water quality and limiting the effects of human use. All species of fish and wildlife inhabiting the river would be affected by water pollution such as chemical contamination, excessive turbidity or sedimentation, oil spills, and waste disposal.

Currently, land development along the Nissequogue River in the Village is minimal and is generally set back from tidal wetlands, across River Road. This distance separation and the low intensity of use diffuses runoff-carrying sediments and fertilizers to some extent. There is the potential, however, for greater water quality impacts as development increases along the riverbank. Without careful control of construction activities and location of driveways, roadways and structures along the steep escarpments to the east of River Road, sandy soils from the slopes could be destabilized and run, as sediment pollution, through swales into the river. Slumping of road shoulders on River Road and use of deicing materials can also degrade water quality. Increased use of fertilizers on new lawns could also create water quality problems by leaching through highly permeable Carver soils or by directly running off after a heavy watering or rain.

Since there are no public sewers in the Village, all development occurs on individual septic systems. Due to the general slope of the land toward the river, to the highly permeable soils, and to the presence of high water tables in certain areas, septic systems can contribute to water pollution. The location of new systems must be carefully evaluated and older systems should be checked to ensure that they are functioning properly.

There has been a significant increase in recreational boating in the area in recent years. Boating, especially motor boats, can affect water quality by increasing the potential for gasoline, oil, and toxic boat hull treatments to enter the water through spills, leaks or chipping. Unless boaters are responsible and discharge sanitary wastes only at approved pumpout stations, water quality can be degraded

by direct discharge of sewage into the river. E.coli concentrations, both from boats and upland sources, would seriously impact the goal of cleaning the river to allow for shellfish harvesting. Wakes generated by boats travelling at high speeds contribute to bank and shoreline erosion. Speed limit and "no wake" zones can minimize erosion and sedimentation.

Alteration of tidal patterns in the river can affect water quality by decreasing flushing in some locations or increasing salinity. This would be a basic alteration of habitat characteristics that would disrupt existing populations. Maintaining existing tidal patterns should be a major concern when evaluating dredging proposals. Dredging should be minimized and scheduled in the late fall and winter to minimize impacts on aquatic organisms, and to allow for spoil disposal when wildlife populations are least sensitive to disturbance.

If dredging were to occur outside of existing channels, it could eliminate valuable intertidal marsh habitats, disrupting many birds, reptiles and mammals.

Increasing human use of the Nissequogue River could lead to the elimination of terrapin colonies along the river if not controlled in mid-April through July. Terrapin egg nests are disturbed by human activity such as vessel wakes and off-road vehicular traffic which erode the shoreline and expose nests.

#### Nissequogue Inlet Beaches

The Nissequogue Inlet Beaches are located on either side of the Nissequogue River mouth on Long Island Sound. The portion of the habitat within the Village of Nissequogue consists of approximately 50 acres of sparsely vegetated dredge spoil and adjoining sand beach in the Short Beach Town Park. The habitat is subject to some disturbance as a result of the heavy recreational use (e.g. pedestrians, campers, and off-road vehicles) during the summer. A major portion of the Short Beach site has been posted as a tern nesting area since 1980.

The Short Beach portion of the habitat consists of a relatively small segment of undeveloped barrier beach ecosystem. Although the biological communities in this area are not uncommon in Suffolk County, the existence of undeveloped beaches in close proximity to a major inlet is generally rare on the north shore of Long Island. Short Beach Town Park is an important nesting site for least terns (E), common terns (T), and piping plovers (E), with all three species present from 1982-1984. During each of these years, approximately 130-340 pairs of least terns were reported nesting in the area. Short Beach Town Park was one of the five largest least tern nesting colonies on Long Island in 1982 and 1983, and is of statewide significance. An estimated 200 pairs of common terns, and up to 17 pairs of piping plovers were reported here in 1984.

Least terns and piping plover (5 pairs or less) nest on the western sand spit area in the Town of Smithtown. Their numbers have been decreasing steadily. Common terns have not nested there in recent years. Human disturbance from Sunken Meadow State Park may have forced the majority of nesting birds to move to Short Beach. Other birds which use the area include yellow crowned night heron, osprey (T), great horned owl, and red-tailed hawk. Diamondback terrapin (SC) use both areas for feeding and cover, and are confirmed nesters on the south side of the eastern spit.

The nesting shorebirds and terrapins inhabiting the Short Beach peninsula are highly vulnerable to disturbance by humans from mid-April through July. Since the habitat is located adjacent to a heavily used Town beach, there is significant pedestrian traffic and recreational vehicle use of the uppermost beach and spoil areas and the sandy cove to the south of the peninsula. Human intrusion during the plover, tern, and terrapin nesting season will seriously affect the animals, and may eliminate the colonies. There is already evidence that terns and plovers are being driven off the western section of the habitat by human disturbance. Fencing and/or continuing to annually post the area to protect the birds and terrapin is important to maintaining the habitat.

The habitat was partially created by dredge spoil disposal. Unregulated dredge spoil disposal in this area, however, could be detrimental to the nesters by crushing eggs or by changing desirable contours and vegetative cover. Carefully regulated spoil disposal, on the other hand, could be designed to improve the habitat by controlling vegetative succession.

Finally, introduction or attraction of mammalian predators to the Short Beach nesting area would also be detrimental to the populations of nesting wildlife. Control of pets, as well as ensuring that raccoons or fox are not attracted by food refuse, is important.

#### Stony Brook Harbor and West Meadow

Stony Brook Harbor and West Meadow are located on the north shore of Long Island, between the Villages of Nissequogue and Head of the Harbor and the hamlet of Stony Brook. The harbor itself and Long Beach peninsula lie within the Villages' coastal area. West Meadow Beach is in the Town of Brookhaven. This approximately 1200 acre area is generally defined by the mean high water elevation on all sides. The fish and wildlife habitat includes all of the wetland area behind Long Beach and West Meadow Beach, which contain extensive areas of undeveloped salt marsh, tidal flats, dredge spoil islands, and open water. Also included is the eastern end of the Long Beach barrier peninsula. Water depths in the harbor are generally less than six feet below mean low water, except in dredged navigation channels. The harbor is bordered on the west, south, and east

by residential development and undeveloped woodlands. Small craft harbor facilities predominate the north shore of Stony Brook Harbor, including the Town of Smithtown's Long Beach Marina and boat launching ramp.

Stony Brook Harbor and West Meadow comprise one of the largest and most diverse coastal wetland ecosystems on the north shore of Long Island, of regional significance. This area is important to many fish and wildlife species throughout the year. Least tern (E), common tern (T), and piping plover (E) nest in several locations within Stony Brook Harbor, including Porpoise Channel Island (Youngs Island), the eastern end of Long Beach Peninsula and dredge spoil areas near the Long Beach Marina and the Long Beach boat launch. Approximately 200-300 breeding pairs of least terns, 50-150 pairs of common terns, and 4-9 pairs of piping plovers nested in the area in 1983, 1984, and 1985. In those years, the population of least terns nesting at Stony Brook Harbor was among the five largest on Long Island, of statewide significance. Stony Brook Harbor and West Meadow are also inhabited by a variety of nesting heron species, including snowy egret, black-crowned night heron, and yellow-crowned night heron. The primary heronry is located on the eastern end of Long Beach in the Village of Nissequogue conservation area. As of 1977, this area contained some of the largest nesting concentrations of snowy egret and black-crowned night heron on Long Island, with estimates of 128 and 160 pairs, respectively. Other species nesting in the Stony Brook Harbor and West Meadow area include Canada goose, herring gull, great black-backed gull, wood duck, black duck, mallard, fish crow, red-winged blackbird, and horned lark. The salt marshes, intertidal flats, and shallows in this area are used extensively as feeding areas for birds nesting there, and for many other species during migration (shorebirds in particular). At the extreme southern end of the harbor is the Bartlett Marsh. This coastal fresh marsh includes an extensive and varied upland, a pond, an extensive system of fresh-water springs, and a small creek. The natural cover provides a home for a wide range of birds, including marsh harriers, and for a considerable variety of small mammals such as fox, opossum, muskrat, raccoon, woodchuck, whitefooted mice and deer mice, and others. Year-round bird residents include flickers, downy and hairy woodpeckers, red-bellied woodpeckers, titmice, chickadees, mockingbirds, catbirds, grackles, house and American finches, blue jays, cardinals, nuthatches, and a wide spectrum of sparrows; summer breeders include barn swallows, purple martins, robins, and an extensive list of warblers, including the blue-winged and the prothonotary.

Stony Brook Harbor and West Meadow is one of the most important waterfowl wintering areas (November - March) in northern Suffolk County. Mid-winter aerial surveys of waterfowl abundance for the ten year period 1975-1984 indicate average concentrations of over 375 birds in the area each year (784 in peak year), including approximately 125 black ducks (418 in peak year), along with lesser

numbers of scaup, mallard, Canada goose, oldsquaw, bufflehead, common goldeneye, red-breasted merganser, and mute swan.

Waterfowl use of the area during winter is influenced in part by the extent of ice cover each year. Concentrations of waterfowl also occur in Stony Brook Harbor and West Meadow during spring and fall migrations (March - April and October - November, respectively).

In addition to having significant bird concentrations, Stony Brook Harbor and West Meadow are productive areas for marine finfish, shellfish, and other wildlife. The bay and creeks serve as nursery and feeding areas (from April - November, generally) for winter flounder, bluefish, blackfish, and forage fish species, such as Atlantic silverside and striped killifish. The harbor is inhabited by concentrations of hard clam, soft clam, American oyster, ribbed mussel, and blue mussel but part of the area is not certified for shellfishing. Stony Brook Harbor and West Meadow are readily accessible for a variety of fish and wildlife-related recreational uses, and are popular among local residents for fishing, birdwatching, nature study and waterfowl hunting.

The sensitive tidal habitats of Stony Brook Harbor are similar to those in the Nissequogue River in that degradation of water quality and intrusion by humans will disrupt the fish and bird populations.

Water quality in Stony Brook Harbor is affected by land runoff and vessel waste discharge. It is suspected that old, malfunctioning, or poorly sited septic systems may also contribute to water quality problems, although more research is required. Since Stony Brook Harbor sits in a bowl, runoff from the higher land and roadways into the harbor can introduce sediments and pollutants. The low intensity of development and the generally wooded character of hillsides and swales currently act to retain some sediments and pollutants. As the Villages become more developed, however, it will be critical to retain as much stabilizing natural cover as possible and to carefully site buildings in order to minimize sedimentation. Introduction of chemicals like road salts, fertilizers, fuels, and boat and dock preservatives are also a concern. Measures to reduce or eliminate chemical pollutants through direct action or public information is necessary.

Like the Nissequogue River, boating is also increasing in Stony Brook Harbor. The shelter that the harbor offers makes it a desirable mooring and docking area. The Town of Smithtown has recently expanded its marina north of Porpoise Channel. The Town has also conducted numerous studies showing that further expansion of boating facilities into the Nissequogue River and Stony Brook Harbor would cause significant scenic and environmental damage. Increased introduction of boat waste discharges into the water would severely affect recreational and commercial shellfishing and the future of any mariculture project,

as well as damaging native fish and shellfish populations. Provision of adequate pumpout facilities, as proposed by the Town of Smithtown, will help reduce discharge pollutants.

Dredging and dredge spoil disposal is a major concern in Stony Brook Harbor. The Marine Sciences Research Center at SUNY - Stony Brook prepared an in-depth analysis of the impact of large scale dredging on the harbor and its habitats. A predictive computer model of six dredging proposals for Stony Brook Harbor showed that, to a greater or lesser extent, all plans would increase tidal range and reduce tidal velocities. The harbor would lose some ability to flush contaminants out to Smithtown Bay and it would also expose larger areas at low tide, adversely affecting habitats.

If limited dredging is to occur, however, it should be scheduled in the later summer and fall to minimize potential impacts on aquatic organisms, and to allow for spoil disposal when wildlife populations are least sensitive. It should be stressed that dredging outside of existing channels would remove intertidal marsh and seriously disrupt habitats. Likewise, filling of the intertidal marsh or altering the surface or subsurface flow of water to the marsh would also be crucial. Unregulated dredge spoil disposal would be extremely detrimental to the habitats of Stony Brook Harbor, however, disposal could be designed to improve habitats for certain species of wildlife.

Nesting birds inhabiting Stony Brook Harbor are highly vulnerable to disturbance by humans from mid-April through July. Recreational activities (e.g. boat landing, picnicking, hiking, etc.) in or near bird nesting areas should be minimized during this period through the use of fencing and/or annual posting.

Finally, construction and maintenance of shoreline structures, such as docks, piers, bulkheads, or revetments in areas not previously disturbed by development, may have a significant impact on the habitat, by interfering with the flow of water or sediments and by introducing human uses directly into habitats.

## **5. Fishing and Aquaculture**

The Nissequogue River and Stony Brook Harbor are used principally for recreational fishing. Due to their shallow depth, commercial finfishing is not feasible. There is limited commercial shellfishing. Recreational anglers fish for bluefish, flounder, fluke, striped bass, weakfish and snapper. These fish run seasonally in the Nissequogue River, Stony Brook Harbor and Smithtown Bay. In Stony Brook Harbor, fishing is done from the shore at the four landings, and from Long Beach, where people surf cast or fish from floating docks and along the shoreline. Small open boats are also used for recreational fishing. In

Nissequogue, surf casting occurs along Short Beach and the shoreline of Smithtown Bay.

Shellfish are found in both the Nissequogue River and Stony Brook Harbor. Oysters, once plentiful in the area, were decimated by overfishing. Baymen and recreational harvesters now concentrate on hard and soft clams. Lobsters are found in the deeper waters of Stony Brook Harbor. Although there are high shellfish populations in the Nissequogue River, the waters have not been certified for harvesting since 1953, due to rising bacterial levels. Stony Brook Harbor was once entirely certified; however, the southern tip of the harbor near Bartlett's Marsh is now closed. In addition, shellfish may not be taken in the general vicinity of the Stony Brook Yacht Club basin between May 15 and October 31. This period coincides with the boating season and suggests that contamination from boats may affect certification. The Stony Brook creek is not certified for shellfishing.

One of the biggest threats to shellfishing opportunities in the coastal area is deteriorating water quality. Isolation of the causes of pollution, and an active program to upgrade water quality is critical to bringing the Nissequogue River back and in arresting further degradation of the harbor.

An adequate and continuous supply of finfish and shellfish requires protection of the habitats and breeding nursery areas of the river and the harbor. This means protecting the remaining tidal wetlands from dredging, dredge spoil disposal, and excessive sedimentation. Also, dredging proposals which would alter tidal patterns or other activities which would cause changes in salinity would upset the physical balance required for propagation and may introduce new predators.

Overfishing has affected the shellfish supply. To increase supplies, the Village of Nissequogue and the Town of Smithtown are cooperating in a mariculture project in Stony Brook Harbor. The project involves rafting of seed clams north of Porpoise Channel adjacent to the mooring area, developing a stock of spawners and transplanting clams from polluted to certified waters for cleansing.

## **6. Scenic Resources and Important Vistas**

The Villages of Nissequogue and Head-of-the-Harbor share a tranquilly beautiful setting on the north shore of Long Island. The vistas and views vary from expanses of marshlands at the mouth of the Nissequogue River, to views across Long Island Sound toward Connecticut, to the quiet enclosed beauty of Stony Brook Harbor. While there are no scenic resources of state-wide importance, water and land vistas within the Villages are significant local resources.

## Nissequogue River

The Nissequogue River has been designated as a Scenic and Recreational River, under the NYS Wild, Scenic and Recreational Systems Act (ECL Article 15, Title 27). Boundary and resource evaluation studies have been completed. Within the Village, the river is classified as a recreational river.

The Nissequogue River, where it borders the Village of Nissequogue offers a complex series of views ranging from isolated shady stretches to broad, quiet estuarine areas to dunes at its confluence with Long Island Sound. The lower reaches of the Nissequogue River, toward the south end of the Village, are characterized by steep banks, broad floodplains and a high degree of vegetative cover. The river widens substantially to become a full-fledged estuarine ecosystem. As the river widens, vegetative enclosure of views lessens. Steep slopes continue to occur and large tidal wetland areas predominate at the water's edge. At the mouth of the river, the visual characteristics are complex, with dunes, broad tidal marshes and high escarpments. The entire length of the river corridor in the Village is heavily wooded with few structures visible from the water. The most visible manmade intrusion is the parking area at Short Beach Town Park. The views of the river looking toward the Village are of a highly natural and undisturbed corridor.

A more detailed discussion of the visual characteristics of the Nissequogue River corridor has been extracted from the "Nissequogue River Study", prepared by the Town of Smithtown Conservation Advisory Council. The discussion is broken into two segments. Segment A runs from the southern boundary of the Village to James Neck Road. Segment B runs north to the confluence of the river and Smithtown Bay.

### Segment A

The character of this segment is predominantly natural. Several dwellings are visible from the river, however, they do not detract visually. This is due to the fact that they are small objects in the field of view. They act as focal elements and aid in composing a view. The character of the buildings is compatible with their surroundings. The character of the landscaping is also natural, often consisting of virtually no yard or grassed lawns. Most of the homes blend with the natural landscape.

The visual quality of the water is not as high as in upstream zones. The water is slightly turbid as one progresses toward the river's mouth. This does not affect the quality of the middle ground and background views, because the clarity of the water is not evident beyond 50 feet. The movement of the water also decreases.

The water appears still during incoming tides. Due to the meandering channel, the complexity of the edge between land and water is high, adding visual interest.

The visual effect of the terrain is evident in this zone. The complex nature of the landforms can be seen from the river. The slope and change in elevation is more noticeable in this segment than in any other. The set back of the slope from the channel is ideal for the most effect from this landform.

The diversity of vegetation, particularly the wetland-forest contrast, has a pronounced positive effect on the visual quality. The probability of seeing wildlife is high here because of the low number of human inhabitants.

### Segment B

Expansive water views with low enclosure by terrain or vegetation characterize the broad mouth of the river. The area toward the mouth of the river has the most diverse terrain. Many landform types including escarpments, steep hills, gentle rises, a sand pit and tidal marshes are apparent simultaneously. Changes in elevation are most evident in this area. High overlooks afford panoramas of Long Island Sound and the Nissequogue River at the same time.

The vegetation near the river's mouth is also diverse. The contrasting form, color and texture of wetlands, woods, dune plants and pioneer species is visually interesting. The edge of the vegetation against the sky is varied and interesting in this area.

The water is fairly clear, although there is some turbidity. Movement is generally low especially at high and low tide. Between tides the current is obvious. Occasional high winds cause white caps in this area. The edge of the water is fairly complex, especially from the overlooks.

The Nissequogue River corridor in the Village of Nissequogue is wooded, rural and natural in character. This is due, in part, to the large minimum lot size, regulations on cutting of trees, topography, architectural review which emphasizes compatibility with a building's setting, and Village ownership of tidelands.

Finalization of the Scenic and Recreational Rivers System designation has strengthened protection of the visual quality of this area. Strict aesthetic performance standards under Part 666, New York Code of Rules and Regulations, are in force in the river corridor.

### Stony Brook Harbor

Stony Brook Harbor is framed on three sides by gentle, wooded slopes, beaches and wetland habitats. The main access to the harbor is through Porpoise Channel which sweeps from east to west, leading to the main body of the harbor. The mouth of the harbor is characterized by tidal flats, wetlands and Youngs Island, a former dredge spoil site. Two marinas, a boat basin, and a 600 car parking lot are the principal man-made uses in this area. Viewed from other parts of the harbor this area is one of highly visible and intensive uses. While the marinas and boat basin create some visual interest and color, the parking lot does detract from the scene.

The harbor itself is relatively shallow and is unsuitable for large boats or boats travelling at high speed. Small sailboats, windsurfers and canoes tend to be used in the harbor. They add color and movement to the scene.

The views across Stony Brook Harbor from any point on its shoreline are unusual for the tranquility, harmony and a blend of rural landscape background with a foreground of water and wetland marshes, and the unobtrusive, often historic, architecture. The shoreline's irregular edges, marked by wetland vegetation, provide not only rich habitat areas, but also lend an ephemeral quality to the line where the water meets the land. The tidal lands and wetland vegetation unify the shoreline around the harbor.

The deciduous woodlands surrounding the harbor offer a sense of enclosure. The trees give a strong vertical contrast to the horizontal plane of the water in the winter, and soften the topography when the leaves are out. The trees screen most of the structures around the harbor and soften the lines of those which are visible.

The residences surrounding the harbor, whether historic or more recent, are notable for their sensitive siting. There is a good relationship to topography, as well as subtle coloring, use of materials, and shapes, which makes each contribute to the harmonious character of the harbor.

### Village Roadways

There is an overwhelming feeling of rural seclusion as one drives on the Village streets. In both Villages, roads are winding and tree-shaded. Wooded land on both sides creates a sense of enclosure. There are openings in the vegetation showing views of farm fields, open spaces and garden settings for large historic houses. With the exception of a few historic buildings, in themselves of scenic interest, most structures are set back from the road, allowing the roads to remain more like country lanes than Village streets.

#### **D. PUBLIC WATER AND SEWER SERVICE AREA**

There is no public sewer service in either Nissequogue or Head-of-the-Harbor. All development occurs on private septic systems which are approved by the Suffolk County Health Department prior to use. The Health Department review examines system distance to surface waters and to the groundwater table, as well as soil conditions to ensure that the system effectively removes pollutants. There is no on-going monitoring of septic system functioning by the Health Department. The Department responds to nuisance complaints, most often generated by surface overflow.

There is concern that some septic systems near the river and the harbor are not functioning efficiently and may be contributing to pollution of these waterbodies. A relatively sophisticated monitoring system is needed to evaluate this concern. The Villages are currently working with the Marine Sciences Research Center at SUNY - Stony Brook to develop a monitoring program for Stony Brook Harbor. In the Nissequogue River, some pollutants may enter the waters from malfunctioning systems along the western bank.

All water in Nissequogue and over 90% of the water in Head-of-the-Harbor is supplied from private wells. Small parts of Head-of-the-Harbor on Fifty Acre Road, Rte. 25A adjacent to St. James, and the Pond Woods subdivision are serviced by three water districts -- the Suffolk County Water Authority, the St. James Water District, and the Stony Brook Water District, respectively. According to the Suffolk County Health Department Water Quality Unit, there have been no reported instances of bacterial contamination in Village wells, and water quality is generally good even for wells tapped into the shallow Upper Glacial Aquifer. Some wells close to the shore may have problems with saline intrusion.

The provision of public water and sewer systems would be an extremely expensive undertaking because of the development patterns in the Villages and the terrain. Since government grants for the construction of public service facilities are becoming more scarce, the Villages cannot count on this assistance. The continued pattern of low density development, combined with use of innovative septic systems in situations where higher densities might be warranted, will help to ensure that residents of the Villages can continue to rely on individual wells and septic systems.

#### **E. HIGHWAY, ROADS, AND MASS TRANSPORTATION SERVICES**

The nearest highway to the Villages is North Country Road, State Route 25A, which forms part of the southern border of Head-of-the-Harbor. This road is for the most part two-lane. A historic district is traversed between the Presbyterian Church in Smithtown and the Carriage House Museums complex in the hamlet of Stony Brook.

There is no mass transportation service within the Villages apart from a Town-sponsored bus service operating only in the summer season to and from Long Beach, utilizing school buses. The buses run from peripheral parking lots located outside of the Villages.

The roads in the Villages are of two kinds: municipal and private. Head-of-the-Harbor discourages private roads. Those which exist were built before this policy was adopted. Existing private roads may be taken by the municipality if they are offered for dedication and are first brought up to Village standards. Nissequogue has followed a different policy, and has minimized the extent of Village roads. Municipal standards are required of development roads, but their subsequent maintenance is not a Village concern. Maintenance is therefore uneven in quality.

Some roads traversing the Villages receive heavy traffic, primarily those serving Town of Smithtown recreational areas in the summertime. Moriches Road, which (with its extensions called Horse Race Lane and Boney Lane) traverses both Villages, leads to Short Beach, Long Beach, and the Town marinas on the northeastern sand spit of Nissequogue. Summer traffic may be very heavy and congestion very great, especially as trailered boats form a significant part of weekend traffic. The road over which they are carried is two-lane, in places sharply curving, and not suited to wide loads. Long Beach Road connects Moriches Road to the marinas and to Long Beach, and suffers the same traffic burden. It was widened in 1982 to accommodate the volume of traffic. The Town of Smithtown contributed to the road widening costs, and contributes a share to the maintenance of the roads within Nissequogue which serve its beaches.

The widening of Long Beach Road slightly eased the traffic congestion, and certainly contributed to road safety; critics have also pointed out, not inaccurately, that neither the rural atmosphere of the Village nor its visual beauty were improved by the removal of trees and the broadening of pavement. The congestion of the access to Short Beach remains. Nearly all car traffic, and all trailered-boat traffic, crosses Head-of-the-Harbor on its way to the Town beaches, but the existence of alternative routes through Head-of-the-Harbor (via Moriches Road and via Fifty Acre Road) has made for less acute congestion, especially as traffic on Fifty Acre Road was generally light. Recent residential development along Fifty Acre Road may alter the pattern in an unfavorable way.

## **SUMMARY: ANALYSIS, ISSUES, PROBLEMS, OPPORTUNITIES**

### **Analysis**

Head-of-the-Harbor and Nissequogue occupy a coastal environment that is unusual, exceptionally attractive, and remarkably unspoiled. The Nissequogue River to the west has suffered, and continues to suffer, from careless and exploitative use, and its future welfare is threatened by conflicting jurisdictions which encumber the process of decision-making; but Stony Brook Harbor has enjoyed a long history during which few injuries have been inflicted upon it. Here there is not a question of revitalizing a waterfront, but of identifying means of preventing its deterioration, and setting forth methods that will be effective, practical, and sufficient.

The coastal zone occupied by the two Villages has never had economic value in the sense of supporting commerce or industry other than a very small commercial shellfishing industry. As late as World War II, most of the area was farmed, and the remainder was in moderately large estates; there was little new building, and a correspondingly slow population growth. But this languid pace of development was not confined to the two small municipalities; the Town of Smithtown as a whole was primarily a farming community, with a negligible amount of industrial development, and commercial activities confined mostly to providing services---banks, shops, medical and dental and other professional services, and the like. In 1945 the entire Town of Smithtown had a population of fewer than 25,000; by 1980 it approached 120,000, and it had changed from a lightly-settled semi-rural area to an outlying suburb, though the economic base for the expansion of population lies much less in metropolitan New York than in the increasing industrialization and commercial development of Suffolk County itself. During the period of most rapid growth of the Town, the two Villages grew at a moderate pace; as the growth of Smithtown slowed, the Villages increased. This is to say that in the decade between 1970 and 1980, the population of Smithtown increased by only 1.7%, its explosive expansion having all taken place between 1950 and 1970; but between 1970 and 1980, Nissequogue's population increased by 30.5% and Head-of-the-Harbor's by 10%.

What this means in applied terms is that two small municipalities, accustomed to a pattern of slow growth, began to have growth creep up on them, and in ways that had not been quite anticipated. Both Villages early adopted zoning; in both virtually all land was designated as 2-acre residential; in each an overall plan sketched in a future of continued rural atmosphere, to be encouraged by careful visual siting of new structures---that is, well back from roads, or property lines, so that to the greatest extent possible houses would be, in the future as in the past, out of eyeshot of each other, or passersby. How well this has worked is evident from a tour through the Villages, which still seem less populated than they are in fact, owing to the virtual invisibility of most structures. What was perhaps insufficiently foreseen was the disappearance of the kind of building land for which the visual siting regulations were devised: gentle wooded slopes which were easy to build upon, and easy to use with slight environmental damage or disturbance. By now most of these "easy" sites are used up; much of what remains is far more difficult to develop in every way, and not least in terms of minimal environmental impact.

Development in the Villages of Head-of-the-Harbor and Nissequogue is confined to residential development, but this does not make questions of land use less important, less urgent, or easier to answer adequately. As yet, Stony Brook Harbor has suffered very little from the transportation of soil resulting from development---i.e., erosion into the harbor from disturbed surrounding hillsides; as yet, increased population has not substantially increased chemical wastes; as yet, there has not been an incursion upon wetlands beyond the very minor. But there is no doubt that unless careful and stringently applied precautionary measures are undertaken in the immediate future, degradation is possible: from slope or bluff erosion, from insufficient maintenance of the natural hydrologic system, from contamination of surface and groundwaters. Control and preventive measures are needed now.

The foregoing applies to what the Villages can do inside their borders where no jurisdictional conflicts exists; but it becomes plain on analysis that much of great importance to the preservation of the coastal area does not lie entirely in the hands of the Villages. The ownership of underwater lands in the harbor rests in the State. The greater part of the beach land within Nissequogue and Stony Brook Harbor, which has very little beach---is owned by the Town of Smithtown. The Town has resisted any kind of control that the Village, or Villages, might try to impose: for example, obtaining building permits for structures on the Town-owned land. It undertakes the licensing of shellfishing without consideration of Village interests. To litigate such matters has always seemed, to the Villages, an unaffordable extravagance and indeed, counter-productive; mutually beneficial cooperative agreements should be possible on all disputed points. Clearly it is an integral part of the Villages' approach to coastal management that such agreements should be negotiated for, reached, and honored. The goal of establishing a program of preservation and conservation for Stony Brook Harbor and its remarkable irreplaceable natural resources is sought by the Villages because it will provide a framework, a set of criteria, a strict guide, within which cooperative actions between the Town and Villages can be achieved.

### Issues

Some issues have been touched upon in the foregoing. Still another issue is the extent to which the coastal resources, in particular Stony Brook Harbor, should be devoted to or developed for recreational purposes.

The pressures for expanded water-related recreational facilities exist within the Town. Political pressures can be brought to bear upon members of the Town government to increase recreational facilities which may be detrimental to environmental resources; needless to say, the small population of the two Villages provides them with little pressure-generating power. It ought to be noted that the Villages already provide an extraordinary level of access to recreation for Town residents. In Nissequogue 17.2% of land area, and in Head-of-the-Harbor 8.8%, is given over to recreational use. Less than 6% of the total of 26% is private in use; one-fifth, therefore, of the area of the Villages is devoted to public recreation. This is a figure appropriate for a resort town, but it is very uncommon for two Villages in which recreational uses provide no economic base, and are entirely supported by public funds. It cannot be argued that anything accrues to the Villages from this level of recreational use; if anything, there is an economic cost.\*

But this is perhaps the least of the cost. There is no way in which the recreational use of Stony Brook Harbor can be expanded without inflicting grave damage and possible destruction from the environmental resources unless the expansion is extremely selective and strictly limited. Expansion of Cordwood Path Beach in any direction would destroy either a freshwater wetland, a tidal wetland area, or both. Expansion of the marina or encouragement of the use of the harbor by boats travelling at a speed beyond 5 miles per hour, or dredging channels to accommodate large or deep-draft craft will risk degradation of water quality (already indicating stress) or will disturb valuable habitats, or may seriously contribute to siltation which destroys marshland, shellfisheries and juvenile marine organisms. One cannot, in fact, have limitless recreational use of such a highly sensitive environment without destroying it. Limitations of use should be imposed entirely upon a basis of what is good for the environment, which will not long survive, and its loss will be borne not only by the people of the Villages, but by the people of the Town, the County and the State of New York as well. Other issues stem from this one, but presumably most of them will fall into place once the fundamental decision is made; namely, that no action and no use should precede a determination of its adverse impact on coastal resources.

A second category of issues surrounds land use determinations within the Villages, where pressures to develop vacant lands increase as the supply diminishes and the prices rise. It has already been observed that nearly all "good" land---easy to develop, and of a kind which may be developed with mild environmental impact---has already been built upon. A proportion of what remains should not be built upon at all, as a greater percentage of remaining lands demand development constraints, some of which are severe. The price of land in the area has risen to

---

\* The cost has never been exactly calculated; it may not be worth calculating. However, Village property owners do pay their share of taxes to the Town for support of the facilities, and further, pay substantially for the maintenance and repair of the roads which carry, during the summer season, an inordinate amount of traffic. The Town contributes to road costs in Nissequoque, but not in Head-of-the-Harbor. It is questionable whether the contribution leaves Nissequoque paying no more than it would if there were no seasonal beach traffic, or merely alleviates the burden imposed. In any event, the Villages cannot be thought of as denying public access to recreational facilities. But this is perhaps the least of the cost. There is no way in which the recreational use of Stony Brook Harbor can be expanded without inflicting grave damage and possible destruction upon the environmental resources unless the expansion is extremely selective and strictly limited. Expansion of Cordwood Path Beach in any direction would destroy either a freshwater wetland, a tidal wetland area, or both. Expansion of the marina or encouragement of the use of the harbor by boats traveling at a speed beyond 5 miles an hour, or dredging channels to accommodate large or deep-draft craft will risk degradation of water quality (already indicating stress) or will disturb valuable habitats, or may seriously contribute to siltation which destroys marshland, shellfisheries and juvenile marine organisms. One cannot, in fact, have limitless recreational use of such a highly sensitive environment without destroying it. Limitations of use should be imposed entirely upon a basis of what is good for the environment which will not long survive, and its loss will be borne not only by the people of the Villages, but by the people of the Town, the County and of the State of New York as well. Other issues stem from this one, but presumably most of them will fall into place once the fundamental decision is made: namely, that no action and no use should precede a determination of its adverse impact on coastal resources.

such levels that the pressure to develop is extreme, and the possibility of preventing development by municipal exercise of eminent domain, or acquisition of development rights to farmland, is increasingly remote. It is a very real issue in villages such as Head-of-the-Harbor and Nissequogue whether severed develop-mental restraints can be effectively applied. What is at issue will be, in some instances, the right of a landowner to use his property as he sees fit, subject only to common-law restrictions, versus the constraints imposed by a municipality in the general interest---a general interest that some will surely argue as remote, considering that immediate demonstrated harm to any real, living and present individual or individuals may be difficult to prove.

It is the aim, the intention, and the hope of Head-of-the-Harbor and Nissequogue that their Local Waterfront Program for the preservation and conservation of precious environmental resources will be recognized as a suitable basis for some necessary constraints upon development, and that not only their zoning, but their other land-use regulations, will merge with a coastal management program, as essential methods and techniques for achieving that development which is possible without environmental harm.

#### Problems and Opportunities

Problems are predictable from the foregoing. Problems exist in reconciling Village interests and Town interests; problems exist in adjusting private and individual interests to public and general interests. These are fundamental problems; they are more difficult to solve than subsidiary ones. But they also offer a very rare opportunity for fundamental solutions.

Working out conflicts in Village-Town interests provides an opportunity for a first-time exploration of possibilities for effective cooperation. In the past, cooperation has been poor to non-existent in almost all areas, and has reflected, more than anything else, relative positions of political power. If the Town and the joined Villages, however, were each to be pursuing a coastal management program, an equality irrespective of political power would require Town consideration of Village interests, and accommodation rather than overriding could provide a genuine basis for identifying common problems and working on their solutions cooperatively. For example, joint efforts in improving shellfish production in Stony Brook Harbor might form a first cooperative project existing within the outlines of both Smithtown's Local Waterfront Program and that of the Villages. The Villages initiated a study conducted by the Marine Sciences Research Center at SUNY-Stony Brook centering on the hydrological mechanics of Stony Brook Harbor; one of the uses to which the study might be put in a practical application is shellfish production. The study provides a mathematical model of the harbor on the basis of which predictions are available concerning siltation, pollutant dispersal direction and dispersal rates, and many other questions of great significance in the management of the harbor environment and ecology; it should make available a guide to action for both the Town and Villages in undertakings of interest to both by giving a factual basis for decision-making. From relatively limited mutual efforts Village-Town cooperation might expand, still within the framework of coastal management, while useless and sometimes damaging conflicts which are ultimately to the interest of neither are minimized or eliminated.

In a similar way, opportunities exist within the coastal management program for bringing private and public interests into more harmonious relations. If it does nothing else, an inventory of resources--and all Village resources are waterfront resources---brings the extremely complex relationship of the many parts to each other and to the whole into focus. In the Villages, it might be said that land and water is all there is, and that the future depends entirely upon the wise use of each.

In spite of generally cautious land use policies on the part of the two Villages, it is clear that the time has come for still greater caution. Groundwater and surface water must be protected from contaminants to the greatest extent possible. Storm-water runoff must be reduced and recharged as close to the source as possible, runoff into and from swales must be controlled, and sediment traps must be employed where stormwater cannot be recharged on site: these steps are necessary to maintain water quantity and quality. Its quality must be protected by minimizing lawn areas which require heavy use of fertilizers and insecticides, and by exploring possibilities of adding to County Department of Health requirements any useful additional Village requirements for the construction of septic systems. Potential flood or erosion areas must be afforded additional attention in Village regulations: withdrawing from development all land in the 100-year flood plain must be considered, and building should be forbidden where the depth to the seasonal high water table is less than 3 feet. Undertaking such protective land-use regulations will, in due course, extend further protection to wetlands by preventing sedimentation from the land side and nutrient loading. Such considerations as these, and there are many others, will limit and inhibit development. Very often private interest can see no further than this; but certainly an opportunity exists within the framework of coastal management to accompany regulation with a serious program of public education, with the aim of making clear the need to harmonize, and if necessary to limit, present desires with the general future welfare.

The Villages have never undertaken educational programs of this nature: none has ever before been needed in communities of such small size and so few seriously competing interests. But it has become increasingly clear, especially in the last five years, that the concept of the two Villages as essentially rural areas has been very considerably eroded. Suburbanization has approached, which means more than an increase in population, new building, and greater demands upon resources. People who have not encountered these resources before should be introduced to keeping these blessings--clean air, clean water, a wonderful range of wildlife, a rich historic heritage, much quiet and serene visual beauty--and be introduced as well to the costs attached to keeping these blessings intact. In the long run there may be no way of ensuring the preservation of these values except by arousing the interest and the affection of many. For that attempt an expansive opportunity exists, and upon using it wisely and effectively rests not only the future of coastal management in the Villages, but the future of a small glacier-born peninsula and a small natural harbor as well.

It is clear from the foregoing pages that the existing waterfront conditions in the Villages of Head-of-the-Harbor and Nissequogue provide several present problems, and the immediate potential for ones which may prove disastrous if not wisely and rapidly confronted. It is for the purpose of confronting these problems, meeting them, preventing deterioration in the waterfront conditions, and restoring damage before it becomes severe, that the Villages have joined together to plan and implement this Local Waterfront Revitalization Program.

**SECTION III**

**WATERFRONT REVITALIZATION PROGRAM  
POLICIES**

### **SECTION III: WATERFRONT REVITALIZATION PROGRAM POLICIES**

The Local Waterfront Revitalization Program for the Villages of Head-of-the-Harbor and Nissequogue addresses local conditions and needs within the context of consistency with the State program.

In the following section, New York State Policies are indicated, and are numbered from 1 through 44. Where a State policy is directly applicable to local conditions, no additional policy is indicated; particular local application of the State policy may be indicated, however, under Explanation of Policy. Where a State policy is not directly applicable to local conditions, and an additional policy has been formulated, this policy is numbered to conform with the State policy. Inapplicable State policies have been so indicated.

#### **DEVELOPMENT POLICIES**

**POLICY 1                    RESTORE, REVITALIZE, AND REDEVELOP DETERIORATED AND UNDER-UTILIZED WATERFRONT AREAS FOR COMMERCIAL AND INDUSTRIAL, CULTURAL, RECREATIONAL, AND OTHER COMPATIBLE USES.**

#### **Explanation of Why Policy Is Not Applicable**

This policy is not applicable to the Villages of Nissequogue and Head-of-the-Harbor. As shown in the Inventory and Analysis, the Villages' waterfront on Stony Brook Harbor and on the Nissequogue River is an environmentally sensitive area characterized by open space, low density residential uses and recreational uses. Neither structures nor properties within the waterfront area are classified as deteriorated, underutilized or abandoned. In addition, future land use opportunities are confined to open space and low density residential uses by the local zoning ordinances. Land uses permitted in the coastal area of the Villages are those which are described in Part IV of this document. Part IV shall be adhered to in all consistency decisions.

**POLICY 2                    FACILITATE THE SITING OF WATER-DEPENDENT USES AND FACILITIES ON OR ADJACENT TO COASTAL WATERS.**

**POLICY 2A                 WATER-DEPENDENT USES ON AND ADJACENT TO STONY BROOK HARBOR SHALL BE COMPATIBLE WITH THE CONSERVATION AND PRESERVATION OF STONY BROOK HARBOR AS AN UNSPOILED EMBAYMENT AND HABITAT AREA.**

**POLICY 2B            WATER-DEPENDENT USES ON THE NISSEQUOGUE RIVER  
SHALL BE COMPATIBLE WITH THE CONSERVATION AND  
PRESERVATION OF THE NISSEQUOGUE RIVER AS AN  
IMPORTANT ESTUARINE SYSTEM AND A SCENIC AND  
RECREATIONAL RIVER.**

**Explanation of Policy**

**Stony Brook Harbor:** The confined area, poor flushing ability and shallow depth of Stony Brook Harbor limit the types of uses and the intensity of use appropriate to maintaining a good environmental balance.

The chief water-dependent uses of the harbor are recreational. Extensive facilities are owned, operated and maintained by the Town of Smithtown along Long Beach at the northern end of the harbor. The Long Beach facilities, sited on both the northern and southern shores of the spit include two beaches, a large picnic area, a 167 slip marina, a mooring basin for 110 boats, and two boat ramps. In addition, the Smithtown Bay Yacht Club, a private marina is located near the Town's Long Beach park facilities. A third small Town beach, Cordwood Path Beach, is located at the boundary between the Villages of Head-of-the-Harbor and Nissequogue on the western shore of the harbor.

Recreational facilities belonging to the Village of Nissequogue are also located on Long Beach, in the form of a Village park and wildlife protection area, which includes a sanctuary for nesting waterbirds and prime breeding ground for herons.

Another water-dependent recreational use occurring in the harbor is a limited amount of small-scale fishing and shellfishing not involving the use of large boats or mechanical equipment for harvesting. Waterfowl hunting is also a water-dependent use within the harbor.

The following water-dependent uses are compatible with the environmental limitations and the scenic qualities of Stony Brook Harbor:

- 1) existing (as of May, 1986) municipal active recreation areas and support facilities at Long Beach and Cordwood Path Beach;
- 2) existing (as of May, 1986) mooring basin and public and private marinas on Porpoise Channel; existing pumpout facilities will be maintained at these facilities;
- 3) passive recreation, as nature study in bird and wildlife preserves;
- 4) mariculture programs;

- 5) recreational fishing and commercial and recreational shellfishing provided that no mechanical means of harvesting are used;
- 6) small boat sailing.
- 7) Private docks are permitted if constructed and maintained in keeping with the following standards:
  - a. docks shall be designed to reduce obstacles to navigation and public use of the waters;
  - b. docks shall be constructed so they do not interfere with the movement of water within the harbor or with the functioning of the harbor as a habitat;
  - c. new, expanded or reconstructed docks shall be constructed in a location and in a manner which avoids the necessity for dredging, and in no way interferes with navigability;
  - d. docks shall provide a minimum clearance of four (4) feet above the soil surface of the marsh in vegetated intertidal areas;
  - e. cooperative use of docks by neighboring landowners shall be encouraged and facilitated as a means of reducing the number of visual intrusions into the harbor and mitigating the adverse effects on habitats;
  - f. access to a dock shall not disrupt a tidal wetland or marsh unless there is no practicable alternative; if access must be gained by traversing a tidal wetland or marsh, the access shall be constructed in the least damaging location and manner;
  - g. pressure-treated wood is preferred for constructing of docks; creosote or other similar applied preservatives shall not be permitted.

(See Policies 7,8,9,21,44)

The existing level of water-dependent active recreational development imposes some stress upon the environment in terms of habitat disruption, increased erosion and siltation and pollution of the poorly flushed Harbor waters in Stony Brook Harbor. Further development or expansion of existing recreational facilities should be undertaken only if a negligible impact to the environment, scenic qualities and traffic can be demonstrated.

As Map 7A and 7B in the Inventory shows, the immediate harbor shoreline of the Villages is composed primarily of tidal wetlands and prime wildlife areas. Consequently, the opportunity to create additional water-dependent recreation facilities is limited around Stony Brook Harbor.

The creation of new active water-dependent uses within or on the shore of Stony Brook Harbor is inconsistent with the preservation of this rich habitat area, maintenance of water quality, retention of scenic resources, and local land use regulations.

The enhancement of existing water-dependent recreational resources through installation, maintenance and use of pumpout facilities, landscaping, retention of stormwater runoff, and promotion of public transportation to reduce traffic impacts is encouraged. However, due to the fragile nature of the harbor, expansion of publicly-owned active recreational facilities is discouraged and creation of new private active recreational facilities is prohibited.

The Nissequogue River: The Nissequogue River is bounded by the Village of Nissequogue and the Town of Smithtown. The River is a significant estuarine habitat, and has been designated as a Scenic and Recreational River pursuant to the NYS Wild, Scenic and Recreational Rivers System Act (Article 15-Title 27 of the ECL). Within the Village of Nissequogue, the primary water dependent use is active and passive recreation. The Nature Conservancy owns a six acre parcel along the river which offers passive recreational enjoyment of the river, including birdwatching, nature study and walking. The Town of Smithtown operates a beach, a campground and a nature preserve at Short Beach, a peninsula stretching into the mouth of the Nissequogue River at its confluence with Long Island Sound. Short Beach also contains a significant least tern and piping plover colony.

Due to the significance of the estuarine environment and in keeping with the goals of scenic protection, the Village will permit the following water dependent uses to be located along the riverbank:

- 1) private docks, according to the standards outlined above for docks in Stony Brook Harbor;
- 2) mariculture programs;
- 3) fishing and shellfishing provided no mechanical devices for harvesting are used;
- 4) public and private nature preserves;
- 5) existing Town of Smithtown recreational facilities and support facilities.

**POLICY 3**                    **FURTHER DEVELOP THE STATE'S MAJOR PORTS OF ALBANY, BUFFALO, NEW YORK, OGDENSBURG, AND OSWEGO AS CENTERS OF COMMERCE AND INDUSTRY, AND ENCOURAGE THE SITING IN THESE PORT AREAS, INCLUDING THOSE UNDER THE JURISDICTION OF STATE PUBLIC AUTHORITIES, OF LAND USE AND DEVELOPMENT WHICH IS ESSENTIAL TO OR IN SUPPORT OF THE WATERBORNE TRANSPORTATION OF CARGO AND PEOPLE.**

**Explanation of Why Policy Is Not Applicable**

No major port is located within or near the coastal area of the Villages of Head-of-the-Harbor and Nissequogue.

**POLICY 4                    STRENGTHEN THE ECONOMIC BASE OF SMALLER HARBOR AREAS BY ENCOURAGING THE DEVELOPMENT AND ENHANCEMENT OF THOSE TRADITIONAL USES AND ACTIVITIES WHICH HAVE PROVIDED SUCH AREAS WITH THEIR UNIQUE MARITIME IDENTITY.**

**Explanation of Why Policy Is Not Applicable**

Unlike the small harbors of Port Jefferson, Greenport and Freeport, Stony Brook Harbor exhibits none of the mixed marine uses which are characteristic of traditional and historic harbors. In the mid-19th Century, Stony Brook Harbor reverted from a minor sailing ship building and transshipment area to its original non-commercial status. Since the harbors' development had been only slight before changes in the transportation of goods rendered its activities obsolete, its natural setting was little altered. Consequently, the harbor does not meet the intent of this policy.

**POLICY 5                    ENCOURAGE THE LOCATION OF DEVELOPMENT IN AREAS WHERE PUBLIC SERVICES OR FACILITIES ESSENTIAL TO SUCH DEVELOPMENT ARE ADEQUATE, EXCEPT WHERE SUCH DEVELOPMENT HAS SPECIAL FUNCTIONAL REQUIREMENTS OR OTHER CHARACTERISTICS WHICH NECESSITATE ITS LOCATION IN OTHER COASTAL AREAS.**

**Explanation of Policy**

The Villages of Nissequogue and Head-of-the-Harbor traditionally have been low-density residential areas without commercial activities. The present generally-existing development pattern is of two-acre residential lots with structures set back from the road; this is supported by the zoning laws of both Villages. The low density pattern is not only traditional, it is necessitated by a lack of adequate infrastructure, including public sewerage, water supply, and collector roads. Soil conditions will not support more intensive placement of septic systems. In areas where depth to the seasonal high water table is less than three (3) feet, septic systems should not be permitted due to the high probability of failure. Spoil sites and wetlands along Stony Brook Harbor and the Nissequogue River are areas which shall not be developed because they provide significant habitat and flood control benefits and mitigate surface water and non-point source pollution.

Since there are no public sewers, and only a limited area of Head-of-the Harbor served by public water, development will be directed to areas where topography, geology and other environmental conditions are suitable for and able to accommodate development.

In addition, proposals for development involving six (6) or more acres shall include a habitat management plan for the planting and subsequent maintenance of indigenous vegetation. Vegetation selection shall give particular attention to the relationship of species to each other and to the surrounding plant community, to the quality of the soil, and to the invertebrate and vertebrate populations associated with and dependent upon the proposed plants. The objective of the habitat management plan is to maintain, reinforce and increase the diversity and stability of plant and animal populations that are characteristic of the area throughout the site and particularly within setbacks.

In order to reduce the potential for degradation of surface and groundwater through malfunctioning septic systems, the slumping and erosion of steep slopes and bluffs, and the loss of habitat, all development will occur following the standards outlined in Policies 2,7,11,12,13,14,17,26,32,33 and 44.

**POLICY 6                   EXPEDITE PERMIT PROCEDURES IN ORDER TO FACILITATE  
THE SITING OF DEVELOPMENT ACTIVITIES AT SUITABLE  
LOCATIONS.**

**Explanation of Policy**

For specific types of development activities and in areas suitable for such development, State agencies and Village governments will make every effort to coordinate and synchronize existing permit procedures and regulatory programs, with the Local Waterfront Revitalization Program, as long as the integrity of the regulations' objectives is not jeopardized. These procedures and programs will be coordinated within each agency. Also, efforts will be made to ensure that each agency's procedures and programs are synchronized with other agencies' procedures at each level of government. Finally, regulatory programs and procedures will be synchronized between levels of government, and if necessary, legislative and/or programmatic changes will be recommended.

When proposing new regulations, an agency will determine the feasibility of incorporating the regulations within existing procedures, if this reduces the burden on a particular type of development, and will not jeopardize the integrity of the regulations' objective.

**FISH AND WILDLIFE POLICIES**

**POLICY 7                   SIGNIFICANT COASTAL FISH AND WILDLIFE HABITATS AS  
IDENTIFIED ON THE COASTAL AREA MAP, SHALL BE**

**PROTECTED, PRESERVED, AND, WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN THEIR VIABILITY AS HABITATS.**

**POLICY 7A STONY BROOK HARBOR AND WEST MEADOW ARE COASTAL FISH AND WILDLIFE HABITATS OF STATEWIDE AND LOCAL SIGNIFICANCE AND SHALL BE PROTECTED, PRESERVED AND, WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN THEIR VIABILITY AS HABITATS.**

**POLICY 7B THE NISSEQUOGUE RIVER IS A COASTAL FISH AND WILDLIFE HABITAT OF STATEWIDE AND LOCAL SIGNIFICANCE AND SHALL BE PROTECTED, PRESERVED, AND WHERE PRACTICAL, RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.**

**POLICY 7C THE NISSEQUOGUE INLET BEACH IS A COASTAL FISH AND WILDLIFE HABITAT OF STATEWIDE AND LOCAL SIGNIFICANCE AND SHALL BE PROTECTED, PRESERVED AND WHERE PRACTICAL RESTORED SO AS TO MAINTAIN ITS VIABILITY AS A HABITAT.**

**POLICY 7D IF, FOR SOME OVERRIDING REGIONAL PUBLIC PURPOSE, IT IS NECESSARY TO REDUCE, ELIMINATE OR PERMANENTLY DISRUPT A HABITAT WITHIN SHORT BEACH, THE NISSEQUOGUE RIVER OR STONY BROOK HARBOR BECAUSE NO ALTERNATIVES EXIST, THE HABITAT AREA LOST SHALL BE OFFSET BY THE RECLAMATION OF DEGRADED AREAS OR THE CREATION OF NEW HABITAT AT A RATIO OF 2:1.**

**Explanation of Policy**

Stony Brook Harbor is a relatively shallow bay bounded by the two Villages. The northern shore of the harbor is formed by the Long Beach peninsula, a Town Park and two marinas; other sides are characterized by low density residential development and woodlands.

The harbor and West Meadow comprise one of the largest and most diverse coastal wetlands ecosystems on the north shore of Long Island. Threatened and endangered waterbirds nest at various locations around the harbor. It is also an important wintering area. The bay and creeks leading into it are productive fish and shellfish nursery and feeding areas.

The Nissequogue River forms the western boundary of the Village of Nissequogue. Jurisdiction below the mean high water line is held by the Town of Smithtown. The habitat encompasses the tidal portion of the river, which contains mud flats, salt marshes, and freshwater wetlands,

bordered by undeveloped woodlands, a Town beach and preserve, and low density residential development in the Village of Nissequogue. The Kings Park Psychiatric Center, and medium density residential development are found on the west bank in the Town of Smithtown. The Nissequogue River contains one of the largest coastal wetlands areas on the north shore of Long Island, and is important to a great diversity of fish and threatened and endangered wildlife species throughout the year. The river is also the only sea-run fishery tributary for brown trout to Long Island Sound.

The Nissequogue inlet beaches are sand peninsulas located at the mouth of the Nissequogue River. Short Beach Town Park is located on the eastern peninsula at the mouth of the Nissequogue River, within the Village of Nissequogue. Its undeveloped nature in close proximity to an inlet is generally rare on the north shore of Long Island. Despite heavy recreational use, Short Beach is a least tern nesting area of statewide significance. It is likely that the tern colonies moved to this area from Sunken Meadow State Park, to the west, because of significant human disturbance.

The Inventory and Analysis gives a detailed description of the three habitats and the species inhabiting each. Refer also to Maps 8A and 8B.

In order to protect and preserve these locally significant habitats, actions shall not be undertaken which would destroy or significantly impair the viability of any area as a habitat. The range of actions or classes of activities which have the potential to destroy or significantly impair fish and wildlife habitats in the Nissequogue River, Short Beach and Stony Brook Harbor areas include, but are not limited to, the following:

- 1) Any activity that would substantially degrade the water quality in the Nissequogue River and Stony Brook Harbor or which could adversely affect the biological productivity and viability of these areas.
- 2) Introduction of water-born pollutants into the Nissequogue River or Stony Brook Harbor such as chemical contaminants (affecting food chain effects), petrochemicals, excessive turbidity or sedimentation, sewage discharges, solid wastes, toxic materials and landfill leachates. All species of fish and wildlife may be affected by these pollutants. Water quality will be improved to permit shellfishing, specifically by reducing sewage discharges from upland sources and from recreational boats in the river and the harbor. (See Policies 8,30,33,34,35,36,37,40)
- 3) Alteration of tidal patterns by dredging or other means in the Nissequogue River and in Stony Brook Harbor which may have major impacts on fish and wildlife populations present. Although not within the jurisdiction of the Villages, projects should be designed to be compatible with existing tidal patterns or to cause minimal alteration of tidal flow. (See Policy 35)

- 4) Although not within the jurisdiction of the Villages, dredging to maintain existing boat channels should be minimized and should be undertaken only if the impact on the environment is minimal. Within Stony Brook Harbor any dredging should be scheduled in late summer and fall to minimize potential impacts on aquatic organisms and to allow for spoil disposal when wildlife populations are least sensitive to disturbance. Dredging in the Nissequogue River should be scheduled for late fall or winter to avoid disrupting habitats and to allow for sensitive spoil disposal. (See Policies 15,35)
- 5) Dredge spoil disposal methods shall, when practical, maintain or improve the habitat areas. (See Policies 10,15,18,22,35,44)
- 6) Excavation, filling or draining of salt marshes, tidal wetlands, tidal flats or beaches in Stony Brook Harbor and in the Nissequogue River will result in a direct loss of valuable habitat and are prohibited. In cases where no alternative is present and an overriding regional public purpose makes it necessary to excavate, fill or drain part of a habitat area, the acreage and habitat qualities of the lost habitat area shall be replaced by reclamation of a degraded habitat or creation of new habitat at a ratio of 2:1 (See Policy 44)
- 7) Nesting birds inhabiting Stony Brook Harbor, the Nissequogue River and Short Beach are highly vulnerable to disturbance by humans. On Short Beach, significant pedestrian traffic or recreational vehicle use of the uppermost beach and spoil area could eliminate nesting colonies. Recreational activities in or near bird nesting areas shall be minimized from mid-April through early September, through the use of fencing and/or annual posting. (See Policies 9,22)
- 8) Nesting terrapins on the sandy shorelines of the Nissequogue River and the inlet beaches are especially vulnerable to disturbance by humans from mid-April through early September. Significant pedestrian traffic, vehicular traffic or boat landings could eliminate the terrapin colonies in these areas. (See Policies 9,22)
- 9) Physical alteration of shore areas through channelization or construction and maintenance of shoreline structures, such as docks, piers, bulkheads, or revetments, in areas not previously disturbed by development (i.e., salt marsh, tidal flats or mudflats), may have a significant impact on fish and wildlife resources by changing the volume and rate of flow of water, increasing scouring or causing sedimentation. These activities shall be designed to minimize negative impacts. Introduction of structures, other than docks and piers, into undisturbed areas shall occur only where necessary to prevent loss of life or substantial damage to existing structures.

10) Clear-cutting and removal of ground cover increases the amount of surface water runoff, soil erosion and sediment deposition which can adversely effect wetlands and water quality. Within the principal drainage ways of the watersheds emptying into the Nissequogue River and Stony Brook Harbor clear-cutting or removal of groundcover which leaves bare soil exposed for any reason without appropriate stabilization and erosion control measures shall not be permitted. (See Policies 14 and 37)

11) Uncontrolled grading of land results in vegetation removal, increased surface runoff and/or soil erosion, and downstream sedimentation. Grading and regrading shall only occur in compliance with an approved grading plan which contains suitable erosion prevention, stabilization and revegetation measures.

(See Policies 14 and 37)

The range of physical, biological and chemical parameters which should be considered include, but are not limited to, the following:

- a. physical parameters such as: living space, circulation, flushing rates, tidal amplitude, turbidity, water temperature, depth (loss of littoral zone), morphology, substrate type, vegetation structure, erosion and sedimentation rates;
- b. biological parameters such as: community structure, food chain relationships, species diversity, predator/prey relationships, population size, mortality rates, reproductive rates, behavioral patterns, and migratory patterns;
- c. chemical parameters such as: dissolved oxygen, carbon dioxide, pH, dissolved solids, nutrients, organics, salinity, pollutants (heavy metals, toxic and hazardous materials).

When a proposed action is likely to alter any of the biological, physical or chemical parameters described above beyond the tolerance range of the organisms occupying the habitat, the viability of that habitat has been significantly impaired or destroyed. Such action, therefore, is inconsistent with this policy.

**POLICY 8                    PROTECT FISH AND WILDLIFE RESOURCES IN THE COASTAL AREA FROM THE INTRODUCTION OF HAZARDOUS WASTES AND OTHER POLLUTANTS WHICH BIOACCUMULATE IN THE FOOD CHAIN, OR WHICH CAUSE SIGNIFICANT SUBLETHAL OR LETHAL EFFECTS ON THOSE RESOURCES.**

### Explanation of Policy

Hazardous wastes are unwanted by-products of manufacturing processes and are generally characterized as being flammable, corrosive, reactive or toxic. More specifically, hazardous waste is defined in the Environmental Conservation Law (§27-0901 (3)) as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, sorted, transported, disposed or otherwise managed." Hazardous wastes are identified in regulations adopted by DEC (See 6 NYCRR Part 371).

The handling, storage, transport, treatment and disposal of the identified hazardous materials are being strictly regulated in New York State to prevent their entry or introduction into the State's air, land, and waters. Such controls could effectively minimize possible contamination of and bio-accumulation in wildlife resources at levels that cause mortality or create physiological and behavioral disorders.

Other pollutants are those conventional wastes, generated from point and non-point sources, and not identified as hazardous wastes, but controlled through other State Laws.

(See Policies 33,34,36,37,39,40)

**POLICY 9                    EXPAND RECREATIONAL USE OF FISH AND WILDLIFE RESOURCES IN COASTAL AREAS BY INCREASING ACCESS TO EXISTING RESOURCES, SUPPLEMENTING EXISTING STOCK, AND DEVELOPING NEW RESOURCES. SUCH EFFORTS SHALL BE MADE IN A MANNER WHICH ENSURES THE PROTECTION OF RENEWABLE FISH AND WILDLIFE RESOURCES, AND CONSIDERS OTHER ACTIVITIES DEPENDENT UPON THEM.**

**POLICY 9A                INVESTIGATE AND ENCOURAGE ALL PRACTICABLE MEANS OF REPLENISHING THE SUPPLY OF SHELLFISH FOR RECREATIONAL AND SMALL-SCALE COMMERCIAL HARVESTING.**

### Explanation of Policy

Recreational uses of coastal fish and wildlife resources in the Villages of Nissequogue and Head-of-the-Harbor include non-consumptive uses such as wildlife photography, birdwatching and nature study, and consumptive uses such as hunting, fishing, and trapping.

Opportunities for small-scale shellfishing must be improved through cooperative management of shellfish resources and continued investigation of means of replenishing stocks.

Any efforts to increase recreational use of these resources will be made in a manner which ensures the protection of fish and wildlife resources in marine and freshwater coastal areas and which takes into consideration other activities dependent on these resources. Such efforts must be done in accordance with existing State law and in keeping with sound resource management considerations. Such considerations include biology of the species, carrying capacity of the resource, public demand, costs and available technology.

The following additional guidelines should be considered by State, Federal and local agencies as they determine the consistency of their proposed action with the above policy:

- 1) Consideration should be given as to whether an action will impede existing or future utilization of the State's recreational fish and wildlife resources.
- 2) Efforts to increase access to recreational fish and wildlife resources should not lead to overutilization of that resource or cause impairment of the habitat. Sometimes such impairment or overutilization can be more subtle than actual physical damage to the habitat. For example, increased human presence can deter animals from using the habitat area. Overutilization can include circumstances where a newly stocked area can draw so many fisherman that a resident finfish or shellfish population is not able to establish itself, or where demand for support facilities can undermine the habitat qualities.
- 3) The impacts of increasing access to recreational fish and wildlife resources should be determined on a case-by-case basis, consulting the guidelines established in Policy 7 and/or conferring with a trained fish and wildlife biologist.
- 4) Any public or private sector initiatives to supplement existing stocks (e.g., stocking a stream with hatchery-bred fish) or develop new resources (e.g., creating private fee-hunting or fee-fishing facilities) must be done in accordance with existing State law.

(See Policies 2,7,21,34,44)

**POLICY 10      FURTHER DEVELOP COMMERCIAL FINFISH, SHELLFISH AND CRUSTACEAN RESOURCES IN THE COASTAL AREA BY: (I) ENCOURAGING THE CONSTRUCTION OF NEW, OR IMPROVEMENT OF EXISTING ON-SHORE COMMERCIAL FISHING FACILITIES; (II) INCREASING MARKETING OF THE STATE'S SEAFOOD PRODUCTS; AND (III) MAINTAINING ADEQUATE STOCKS AND EXPANDING AQUACULTURE FACILITIES. SUCH EFFORTS SHALL BE MADE IN A MANNER WHICH ENSURES THE PROTECTION OF SUCH RENEWABLE FISH RESOURCES AND CONSIDERS OTHER ACTIVITIES DEPENDENT ON THEM.**

**Explanation of Why Policy is not Applicable**

Stony Brook Harbor and the Nissequogue River are important as finfish breeding, nursery, and wintering areas. Commercial finfishing in the harbor and the river is precluded by their shallow depths.

There is a small local shellfishing industry in Stony Brook Harbor conducted entirely by local baymen using hand harvesting equipment. Use of hydraulic or bottom-dragging dredges would irretrievably damage the shellfish beds, and should not be used. The Town of Smithtown controls shellfishing in Stony Brook Harbor and the Nissequogue River and prohibits the hydraulic and mechanical taking of shellfish. The New York State Environmental Conservation Law also prohibits the mechanical taking of shellfish from public underwater lands (Article 13-0309). NYSDEC also regulates shellfishing in the harbor, river and bay.

This policy is not applicable because of lack of jurisdiction by the Villages over harvesting practices and physical characteristics which preclude commercial finfishing.

**FLOODING AND EROSION POLICIES**

**POLICY 11 BUILDINGS AND OTHER STRUCTURES WILL BE SITED IN THE COASTAL AREA SO AS TO MINIMIZE DAMAGE TO PROPERTY AND ENDANGERING OF HUMAN LIVES CAUSED BY FLOODING AND EROSION.**

**POLICY 11A RESIDENTIAL CONSTRUCTION IS PROHIBITED WITHIN THE COASTAL HIGH HAZARD AREAS (V-ZONES) AS DESIGNATED ON THE FLOOD INSURANCE RATE MAPS FOR THE VILLAGES OF NISSEQUOGUE AND HEAD-OF-THE-HARBOR.**

**Explanation of Policy**

The designated Flood Hazard Areas and Coastal High Hazard Areas (V-Zones) as identified on the Flood Insurance Rate Maps for the Villages of Nissequogue and Head-of-the-Harbor are described in detail in the Inventory and Analysis, and are shown on Maps 6A and 6B. The general area of flood hazard includes lands fronting on Smithtown Bay, Stony Brook Harbor and the Nissequogue River. High velocity wave areas are located on beaches and tidal wetlands along Porpoise Channel, inside Stony Brook Harbor and at the mouth of the Nissequogue River.

In order to provide the highest level of flood hazard protection to residents of the Villages of Nissequogue and Head-of-the-Harbor, no residential construction shall be permitted within the Coastal High Hazard Areas (V-Zone). High velocity waves and the general instability of these areas increases the potential for loss of life, severe property damage and ancillary damage to other structures and resources.

Within flood hazard areas (A Zones), the following standards for construction and siting of development shall apply:

- 1) For new construction and "substantial" additions:
  - a. all buildings and structures shall be located two hundred (200) feet landward of the reach of the mean high tide;
  - b. all buildings and structures shall be elevated so that the lowest portion of the structural members of the lowest floor is located a minimum of 13 feet above mean sea level, with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls. These areas shall not be used for human habitation;
  - c. all buildings or structures shall be securely anchored on pilings or columns used as structural support and shall be designed and anchored so as to withstand all applied loads of the base flood flow;
  - d. building materials and utility equipment shall be resistant to flood damage.
- 2) For utilities:
  - a. all new, replacement and expanded water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system;
  - b. all new, replacement and expanded sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;
  - c. on-site sanitary sewage systems shall be located to avoid impairment to them or contamination from them during flooding;
  - d. new, replacement or expanded gas and electrical service shall be located and constructed to reduce flood damage.

(See Policies 12,13,14,17)

**POLICY 12            ACTIVITIES OR DEVELOPMENT IN THE COASTAL AREA WILL BE UNDERTAKEN SO AS TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION BY PROTECTING NATURAL PROTECTIVE FEATURES, INCLUDING BEACHES, DUNES, BARRIER ISLANDS AND BLUFFS. PRIMARY DUNES WILL BE PROTECTED FROM**

**ALL ENCROACHMENTS THAT COULD IMPAIR THEIR  
NATURAL PROTECTIVE CAPACITY.**

**Explanation of Policy**

Beaches, dunes, barrier islands, bluffs, and other natural protective features help safeguard coastal lands and property from damage, as well as reduce the danger to human life resulting from flooding and erosion. Excavation of coastal features, improperly designed structures, inadequate site planning, or other similar actions which fail to recognize their fragile nature and high protective values, lead to the weakening or destruction of these landforms. Activities or development in, or in proximity to, natural protective features must ensure that all such adverse effects are mitigated. Primary dunes will be protected from all encroachments that could impair their natural productive capacity.

Within the ownership or jurisdiction of the Villages of Nissequogue and Head-of-the-Harbor, the following areas are specifically designated as important natural protective features which shall be protected from disturbance or encroachment by development or other incompatible land use activities:

**Village of Nissequogue: (Map 5B)**

- Long Beach peninsula including all beaches, dunes and bluffs;
- Bluffs and beaches along the Smithtown Bay shore of the Village;
- Isolated bluffs adjacent to Stony Brook Harbor, north and south of Smith Lane;
- Beaches adjacent to Stony Brook Harbor;
- Dunes and beaches at the mouth of the Nissequogue River (Short Beach Town Park).

**Village of Head-of-the-Harbor: (Map 5A)**

- Cordwood Path Beach (Town of Smithtown) on the western shore of Stony Brook Harbor at the boundary of the Villages of Nissequogue and Head-of-the-Harbor;
- Bluffs located adjacent to Stony Brook Harbor on the southern and eastern shore, extending to the confluence of the harbor and Stony Brook Creek at the grist mill in Stony Brook;
- Beaches adjacent to Stony Brook Harbor.

In order to ensure that the natural protective features which have been identified in the Villages will be protected, the following standards will be applied to all development and land use activities proposed for beaches, dunes and bluffs within the Villages:

### Beaches

Beaches are unsuitable for development due to their constantly changing topography and width. Interference by man can accelerate these natural processes. On beaches, no development of permanent structures or activity requiring the excavation, grading or disruption of the natural slope of the beach shall be permitted.

### Bluffs

Bluffs are particularly fragile areas which are susceptible to erosion, sloughing and weakening from improper development, runoff and groundwater seepage. Development which requires grading, removal of vegetation, siting of buildings, roads or parking lots, will contribute additional stormwater to the area susceptible to erosion at the edge of the face of the bluff. Excessive runoff will eventually cause the bluff to slump and collapse.

- The impact upon a bluff due to site disturbance shall be minimized by siting all structures a minimum distance from the landward edge of the bluff to be determined by the erosional rate of the bluff and the amount of land needed for the structure to remain unaffected for a period of fifty (50) years. However, in no case shall any structure, including swimming pools, be located closer than one hundred (100) feet from the landward edge of the bluff. In addition, there shall be no land disturbance within the setback zone. Land disturbance includes removal of natural vegetation, alteration of surface soils or grade, placement of temporary structures, and the like. Natural vegetation shall be retained to trap stormwater and to stabilize soils.
- Stormwater from developed parts of the property shall be directed so it does not flow across the surface of the land to the bluff face. If the natural slope of the land is away from the bluff face, the slope shall not be altered. In directing the overland flow of stormwater, no stormwater will be allowed to reach the bluff face of an adjacent property.
- Stormwater shall not be recharged in a quantity or a location where surface runoff or subsurface or groundwater flow will undermine the bluff face.
- Impermeable paving shall be minimized. Trap rock or native gravel shall be used for driveways and other outdoor surfaces shall be made of permeable paving. Brick, flagstone and Belgium block on sand are good alternative paving choices for slopes less than 2%.

- Roads and driveways shall be located in such a manner that no stormwater from the road or driveway will reach the bluff face or the beach below.
- Where ground cover has been disturbed, the area within one hundred (100) feet of the bluff face shall be replanted with native vegetation suitable for the bluff location.

Dunes

The dune areas in the Village of Nissequogue provide long-term stability to the shorefront by serving as protection for upland areas from waves, winds, storms, and by blowing sand.

- Primary dunes shall in no way be altered or subject to any activity which would impair their protective capability. This standard shall not be construed to prevent restoration of dunes damaged in a storm or by other means.
- Natural vegetation shall be maintained in dune areas.
- All access points to beaches which are possible only by crossing dune areas shall be kept to a minimum, shall use the least intrusive path which safeguards the vegetation and natural slope of the dune and shall be subject to the approval of the Village Planning Board. In dune areas, raised wooden footpaths shall be provided.
- Vehicles of any type, excluding emergency vehicles and those operated by a governmental body in the performance of its functions, are prohibited in any dune or beach area.
- Where a bluff is the sediment supply for a beach, toe stabilization of the bluff will be permitted only when the applicant has agreed to nourish the beach in front of the bluff with beach material of a similar type and magnitude as that which is presently eroded from the bluff. A deed covenant or similar legal document will be required to ensure that nourishment occurs throughout the life of the structure. All plans for stabilization must be approved by the proper permitting agencies.

**POLICY 13            THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES SHALL BE UNDERTAKEN ONLY IF THEY HAVE A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST THIRTY YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS.**

**POLICY 13A        EXISTING OR NEW EROSION PROTECTION STRUCTURES WITHIN AND ADJACENT TO THE NISSEQUOGUE RIVER, STONY BROOK HARBOR, AND SMITHTOWN BAY SHALL BE**

**RECONSTRUCTED, MODIFIED OR CONSTRUCTED ONLY IF:  
1) THEY HAVE A REASONABLE PROBABILITY OF CONTROLLING EROSION FOR AT LEAST THIRTY (30) YEARS AS DEMONSTRATED IN DESIGN AND CONSTRUCTION STANDARDS AND/OR ASSURED MAINTENANCE OR REPLACEMENT PROGRAMS; AND 2) THEY ARE DEMONSTRATED TO BE NECESSARY.**

**Explanation of Policy**

Construction of erosion protection structures is expensive, often only partially effective over time, and may even be harmful to adjacent or nearby properties. However, in those instances where properly designed and constructed erosion protection structures will be likely to minimize or prevent damage or destruction to public or private property, natural protective features, and other natural resources, construction of erosion protection structures may be allowed. Coastal Erosion Hazard Area maps for the Village of Nissequogue were filed in December 1988, identifying Coastal Erosion Hazard Areas within the Village along the Smithtown Bay bluffs. In Coastal Erosion Hazard Areas, the construction, modification, or restoration of erosion protection structures is subject to the following requirements:

- 1) All erosion protection structures must be designed and constructed according to generally accepted engineering principles, which have demonstrated success, or where sufficient data is not currently available, a likelihood of success in controlling long-term erosion. The protective measures must have a reasonable probability of controlling erosion of the immediate site for at least 30 years.
- 2) A long-term maintenance program must be provided, which includes specifications for normal maintenance of degradable materials and periodic replacement of removable materials.
- 3) If bulkheading is required adjacent to wetlands, bulkheading shall be located upland of the high marsh wetland boundary. Bulkheads or other erosion protection structures shall not block the surface and subsurface flow of freshwater to the wetland.

The following are definitions of terms used in the above:

- a. "Erosion" means the loss or displacement of land along the coastline due to the action of waves, currents, tides, wind-driven water, waterborne ice, of other impacts of storms. It also means the loss or displacement of land due to the action of wind, runoff of surface waters, or groundwater seepage.

- b. "Erosion protection structure" means a structure specifically designed to reduce or prevent erosion such as a groin, jetty, seawall, revetment, bulkhead, breakwater, or artificial beach nourishment project.
- c. "Modification" means a change in size or design.
- d. "Reconstruction" means the reconstruction without modification of an erosion protection structure, the cost of which equals or exceeds fifty percent (50%) of the estimated full replacement cost of the structure at the time of reconstruction.

Although erosion protection structures are constructed according to best engineering practices to minimize impact and ensure a reasonable lifespan, they still induce changes in natural coastal processes. These changes can include erosion, shifts in tidal activity, impacts on habitats and the like. The fragile nature and significance of the habitats in the Nissequogue River and Stony Brook Harbor require that any adverse effects, including those caused by erosion protection structures, be minimized and mitigated. The use of erosion protection structures should be considered only after an evaluation of available non-structural measures in the context of an overall erosion management system for a site. (See Policy 17)

In particular, if bulkheading is considered in a location adjacent to a wetland, the bulkhead shall be located upland from the wetland, at or above the highest yearly tide level elevation. Bulkheads or other erosion protection structures should not block the surface and subsurface flow of fresh water to the wetland.

**POLICY 14            ACTIVITIES AND DEVELOPMENT, INCLUDING THE CONSTRUCTION OR RECONSTRUCTION OF EROSION PROTECTION STRUCTURES, SHALL BE UNDERTAKEN SO THAT THERE WILL BE NO MEASURABLE INCREASE IN EROSION OR FLOODING AT THE SITE OF EACH ACTIVITY OR DEVELOPMENT, OR AT OTHER LOCATIONS.**

**Explanation of Policy**

Erosion and flooding are processes which occur naturally. However, human intervention can increase the severity and adverse effects of those processes, causing damage to, or loss of, property and endangering human lives. Those actions include the following: the use of erosion protection structures such as groins, or the use of impermeable docks which block the littoral transport of sediment to adjacent shorelands, thus increasing their rate of recession; the failure to observe proper drainage or land restoration practices thereby causing damage in otherwise hazard-free areas.

The tidal and freshwater wetlands and habitats of the Nissequogue River and Stony Brook Harbor are sensitive to sedimentation, and flooding can result from the destabilizing effect of disturbing steep slopes and natural drainageways. To maintain natural drainage functions, to reduce the volume of sedimentation and other pollutants entering the Nissequogue River and Stony Brook Harbor habitats, and to promote development in stable areas, the following standards will be applied to all development and land use activities within the Villages of Nissequogue and Head-of-the-Harbor:

- 1) Stream channels, natural flood plains, and major drainage swales shall not be altered in a manner which decreases their ability to accommodate and channel storm water runoff and flood waters. Disturbance of land includes activities such as alteration of slope, deposition of waste materials and removal of vegetation. If no practicable alternative to the location of driveways, pathways and similar surfaces within these areas exists, such facilities shall be sited and constructed to minimize and mitigate the amount and velocity of stormwater entering the swale.
- 2) No land having a slope equal to or greater than 25% shall be developed or disturbed except for conservation measures or measures intended to remove debris which inhibits the functioning of the swale. Natural vegetation and topography shall be retained to stabilize soils and reduce the volume of stormwater flow.
- 3) On lands having slopes of less than 25%, but composed of highly erodible soils, such as Carver soils, development proposals shall include consideration of the load bearing capacity of the soils. Unless it can be demonstrated that the soils can be stabilized with a minimum of on-site disturbance and no adverse impacts to the stability of neighboring properties, the development proposal shall not be approved as submitted.
- 4) Development shall preserve salient natural features of a site, minimize grading and cut and fill operations, ensure conformity with natural topography, and retain natural vegetation and trees to the maximum extent practicable in order to create the least erosion potential and handle adequately the volume and rate of velocity of surface water runoff.
- 5) Natural drainage patterns shall be protected and incorporated into site design. Where natural drainage patterns are demonstrated to be adversely affecting a natural protective feature, drainage patterns may be altered in a manner which reduces the threat of the natural protective feature and does not create other flooding or erosion problems.
- 6) Site preparation, including stripping of vegetative cover and grading, shall be undertaken so that no individual building site is stripped of its vegetation cover more than thirty (30) days prior to commencement of construction.

- 7) Disturbed soils shall be stabilized and revegetated or seeded as soon as practicable. During the interim, erosion protection measures such as temporary vegetation, retention ponds, recharge basins, berming, silt traps and mulching shall be used to ensure that sedimentation is minimized and mitigated.
- 8) In no case shall stormwater be diverted to another property either during site preparation or after development.
- 9) Fill shall not encroach on natural watercourses, constructed channels, wetlands, or floodway areas. All fill shall be compacted at a final angle of repose which provides stability for the material, minimizes erosion and prevents settlement.
- 10) A natural vegetative buffer of one hundred (100) feet shall be retained adjacent to surface waters and wetlands to absorb floodwaters and trap sediments.
- 11) Trails and walking paths along waterbodies shall be sited and constructed so they are not a source of sedimentation or erosion.
- 12) The amount and velocity of runoff from a site after development shall approximate its pre-development characteristics. However, if the site is adjacent to coastal waters, stormwater shall be contained on-site, to the maximum extent practicable, to prevent direct discharge of runoff into coastal waters.

(See Policy 17 in addition to the above standards 1-12)

- 13) Groins, jetties, bulkheads and other structural erosion protection measures shall be used only if no alternative is available. They shall be designed to minimize downdrift impacts and shall not increase on or off-site flooding and erosion. (See Policy 13, 13A)

**POLICY 15**            **MINING, EXCAVATION OR DREDGING IN COASTAL WATERS SHALL NOT SIGNIFICANTLY INTERFERE WITH THE NATURAL PROCESSES WHICH SUPPLY BEACH MATERIALS TO LAND ADJACENT TO SUCH WATERS, AND SHALL BE UNDERTAKEN IN A MANNER WHICH WILL NOT CAUSE AN INCREASE IN EROSION OF SUCH LAND.**

**POLICY 15A**        **MINING OR EXCAVATION UNDER THE WATERS OF THE NISSEQUOGUE RIVER, OF STONY BROOK HARBOR, OR IN THE CONTIGUOUS WATERS AND WITHIN OWNERSHIP OR JURISDICTION OF THE VILLAGES IS PROHIBITED.**

**Explanation of Policy**

Sand or gravel mining in the coastal waters of the Villages of Head-of-the-Harbor and Nissequogue is unjustifiable in view of the inevitable destructive impact upon the natural environment, and the ample supply of sand and gravel from land-based mines, dredging operations and off-shore mines. Mining or excavation is, therefore, prohibited in the coastal waters within the ownership or jurisdiction of the Villages.

(See Policies 7,35,44)

**POLICY 16** PUBLIC FUNDS SHALL ONLY BE USED FOR EROSION PROTECTIVE STRUCTURES WHERE NECESSARY TO PROTECT HUMAN LIFE, AND NEW DEVELOPMENT WHICH REQUIRES A LOCATION WITHIN OR ADJACENT TO AN EROSION HAZARD AREA TO BE ABLE TO FUNCTION, OR EXISTING DEVELOPMENT; AND ONLY WHERE THE PUBLIC BENEFITS OUTWEIGH THE LONG TERM MONETARY AND OTHER COSTS INCLUDING THE POTENTIAL FOR INCREASING EROSION AND ADVERSE EFFECTS ON NATURAL PROTECTIVE FEATURES.

**Explanation of Policy**

Public funds are used for a variety of purposes on the State's shorelines. This policy recognizes the public need for protection of human life and existing investment and development or new development which requires a location in proximity to the coastal area or in adjacent waters to be able to function. However, it also recognizes the adverse impacts of such activities and development on the rate of erosion and on natural protective features and requires that careful analysis be made of such benefits and long term costs prior to expending public funds.

**POLICY 17** WHEREVER POSSIBLE, USE NON-STRUCTURAL MEASURES TO MINIMIZE DAMAGE TO NATURAL RESOURCES AND PROPERTY FROM FLOODING AND EROSION. SUCH MEASURES SHALL INCLUDE: (I) THE SET-BACK OF BUILDINGS AND STRUCTURES; (II) THE PLANTING OF VEGETATION AND THE INSTALLATION OF SAND FENCING AND DRAINING; (III) THE RESHAPING OF BLUFFS; AND (IV) THE FLOOD-PROOFING OF BUILDINGS ON THEIR ELEVATION ABOVE THE BASE FLOOD LEVEL.

**Explanation of Policy**

Structural measures for protection from coastal flooding and erosion are costly. The most cost effective methods of reducing risk to lives and property from coastal flooding and erosion are

non-structural measures which are also more sensitive to the environmental and scenic qualities of the Nissequogue River and Stony Brook Harbor.

This policy shall apply to the planning, siting and design of proposed activities and development, including measures to protect existing activities and development. To ascertain consistency with the policy, it must be determined if any one, or a combination of, non-structural measures would afford the degree of protection appropriate both to the character and purpose of the activity or development and to the hazard. If non-structural measures are determined to offer sufficient protection, then consistency with this policy requires the use of such measures.

In determining whether or not non-structural measures to protect against erosion or flooding will afford the appropriate degree of protection, an analysis, and if necessary, other materials such as plans or sketches of the activity or development, of the site and of the alternative protection measures shall be prepared to allow an assessment to be made.

Non-structural measures of reducing the risk of coastal flooding and erosion which are to be employed within the Villages of Nissequogue and Head-of-the-Harbor include, but are not limited to, those contained in Policies 11,12,13B and 14.

### **GENERAL POLICY**

**POLICY 18**            **TO SAFEGUARD THE VITAL ECONOMIC, SOCIAL AND ENVIRONMENTAL INTERESTS OF THE STATE AND OF ITS CITIZENS, PROPOSED MAJOR ACTIONS IN THE COASTAL AREA MUST GIVE FULL CONSIDERATION TO THOSE INTERESTS, AND TO THE SAFEGUARDS WHICH THE STATE HAS ESTABLISHED TO PROTECT VALUABLE COASTAL RESOURCE AREAS.**

### **Explanation of Policy**

The size, location, existing development pattern and physical characteristics of the coastal area of the Villages of Head-of-the-Harbor and Nissequogue preclude major development proposals. The overriding Statewide, regional and local interest in the coastal area of the Villages is the conservation and protection of the cultural resources, significant habitats, marsh systems and scenic resources of the coastal area. For this reason, maintenance of low-density, carefully sited residential development will fulfill this goal.

### **PUBLIC ACCESS POLICIES**

**POLICY 19**            **PROTECT, MAINTAIN, AND INCREASE THE LEVEL AND TYPES OF ACCESS TO PUBLIC WATER-RELATED**

**RECREATIONAL RESOURCES AND FACILITIES SO THAT THESE RESOURCES AND FACILITIES MAY BE FULLY UTILIZED IN ACCORDANCE WITH REASONABLY ANTICIPATED PUBLIC RECREATION NEEDS AND THE PROTECTION OF HISTORIC AND NATURAL RESOURCES. IN PROVIDING SUCH ACCESS, PRIORITY SHALL BE GIVEN TO PUBLIC BEACHES, BOATING FACILITIES, FISHING AREAS AND WATERFRONT PARKS.**

**POLICY 19A      ENCOURAGE AND FACILITATE ACCESS TO SITES SUITABLE FOR THE EDUCATIONAL AND RECREATIONAL PURSUIT OF NATURE STUDY, BIRD WATCHING, AND NATURE PHOTOGRAPHY IN A MANNER WHICH MINIMIZES DISTURBANCE OF HABITATS.**

**Explanation of Policy**

Stony Brook Harbor and the Nissequogue River are major recreational resources for the residents of the Villages and the Town of Smithtown. There are three Town beaches, a marina, a boat mooring basin, and a Village of Nissequogue nature area on the Long Beach spit on Stony Brook Harbor. In Head-of-the-Harbor, two natural areas for public use are maintained by the Nature Conservancy. A small shallow-water beach, Cordwood Path Beach, is located on Stony Brook Harbor at the boundary between the two Villages. This is part of the Town park system. Parking and support facilities are available at all Town facilities.

There are four rights-of-way giving access to Stony Brook Harbor as indicated on Maps 3A and 3B. The confined nature of these sites, all of which are bounded by embayments and tidal wetlands, makes expansion, or provision of parking, physically impossible, as well as potentially damaging to the harbor environment. This access shall not, however, be diminished.

On the Nissequogue River, the Town of Smithtown operates a beach at Short Beach, which includes a campground and a nature preserve. Parking and support facilities are available.

These areas are described in detail in the Inventory and Analysis. Poor public transportation limits access to the facilities within the Villages. Car and boat trailer traffic impacts the Villages.

Some present uses, especially those connected with boating--moorings, anchorages, and marina facilities--are beginning to impose an environmental stress which suggests that a limit is being approached beyond which resources such as clean water and habitats will sustain damage.

Though public enjoyment of the recreational resources of the Nissequogue River and Stony Brook Harbor is to be encouraged, the overriding concern is to ensure that these resources are not impaired through over-use or incompatible active uses. For this reason emphasis is placed

on developing and promoting more passive access opportunities which will be designed to minimize impact on water quality, habitats, and scenic resources. The Villages will not develop additional active recreational areas on Stony Brook Harbor or the Nissequogue River. The existing Village of Nissequogue nature preserve on Long Beach will continue to offer non-intensive access for nature study and non-consumptive enjoyment of the scenic and wildlife resources of the site.

Lands acquired by either Village in the future which are suitable for passive recreational use shall be developed for public access in the following manner to minimize disruption of habitats and scenic values:

- 1) Any accessory parking areas will be surfaced and graded to prevent direct runoff from the site into waterbodies or wetlands. Surfacing material shall allow for percolation of stormwater.
- 2) Pedestrian and bicycle access will be promoted over vehicular access.
- 3) All walkways and paths shall be sited and designed to minimize disruption of wildlife and vegetative resources.
- 4) Sites shall be posted and monitored during breeding and nesting seasons to prevent disruption of birds.
- 5) Dogs and other pets shall be permitted within an area designated as a nature preserve only when accompanied by the owner or other responsible person who is in charge and control of the animal in accordance with local leash laws. Horseback riding shall be permitted only in parts of such areas designated as suitable for bridle trail use.

(See Policies 7,14)

The following guidelines will be used in determining the consistency of a proposed action with this policy:

- 1) The existing access from adjacent or approximate public lands or facilities to public water-related recreation resources and facilities shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or proximate public lands or facilities to public water-related recreation resources and facilities be eliminated, unless in the latter case, estimates of future use of these resources and facilities are too low to justify maintaining or providing increased public access or unless such actions are found to be necessary or beneficial by the public body having jurisdiction over such access as the result of a reasonable justification of the need to meet systematic objectives.

The following is an explanation of the terms used in the above guideline:

- a. Access - the ability and right of the public to reach and use public coastal lands and waters.
- b. Public water-related recreation resources or facilities - all public lands or facilities that are suitable for passive or active recreation that require either water or a waterfront location or are enhanced by a waterfront location.
- c. Public lands or facilities - lands or facilities held by State or local government in fee simple or less-than-fee simple ownership and to which the public has access to or could have access to, including underwater lands and the foreshore.
- d. A reduction in the existing level of public access-includes but is not limited, to the following:
  - (1) the number of parking spaces at a public water-related recreation resource or facility is significantly reduced;
  - (2) the service level of public transportation to a public water-related recreation resource or facility is significantly reduced during peak season use and such reduction cannot be reasonably justified in terms of meeting system-wide objectives;
  - (3) pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities.
  - (4) There are substantial increases in the following: already existing special fares (not including regular fares in any instance) of public transportation to a public water-related recreation resource or facility, except where the public body having jurisdiction over such fares determines that such substantial fare increases are necessary; and/or admission fees to such a resource or facility, and an analysis shows that such increases will significantly reduce usage by individuals or families with incomes below the State established poverty level.
- e. An elimination of the possibility of increasing public access in the future includes, but is not limited to the following:

- (1) construction of public facilities which physically prevent the provision, except at great expense, or convenient public access to public water-related recreation resources and facilities;
  - (2) sale, lease, or other transfer of public lands that could provide public access to a public water-related recreation resource or facility;
  - (3) construction of private facilities which physically prevent the provision of convenient public access to public water-related recreation resources or facilities from public lands and facilities.
- 2) Any proposed project to increase public access to public water-related recreation resources and facilities shall be analyzed according to the following factors:
- a. the level of access to be provided shall be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with this policy;
  - b. the level of access to be provided shall not cause a degree of use which would exceed the physical capability of the resource of facility. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with this policy.
- 3) The State and local governments will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
- 4) In their plans and programs for increasing public access to public water-related resources and facilities, State agencies shall give priority in the following order to projects located within the boundaries of the Federal-Aid Metropolitan Urban Area and served by public transportation; within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside the defined Urban Area boundary but not served by public transportation.

**POLICY 20**

**ACCESS TO THE PUBLICLY OWNED FORESHORE AND TO LANDS IMMEDIATELY ADJACENT TO THE FORESHORE OR THE WATER'S EDGE THAT ARE PUBLICLY OWNED SHALL BE PROVIDED, AND IT SHOULD BE PROVIDED IN A MANNER COMPATIBLE WITH ADJOINING USES. SUCH LANDS SHALL BE RETAINED IN PUBLIC OWNERSHIP.**

### **Explanation of Policy**

In the Villages of Head-of-the-Harbor and Nissequogue, public access to the foreshore is extensive, especially in the beach areas where the Town and Village parks are located. As more than one-fifth of the total land area of the two Villages is in public recreational use, including both active and passive types, access is ample. Town and Village beaches, parks, and preserves are located on the Long Beach peninsula, on Stony Brook Harbor, and on the Nissequogue River. There are also public access points adaptable for small-boat launching. Owing to the shallowness of the water and the limited parking area, these areas are not suited to boats of a size to require trailering, but suitable access for trailered boats is available at Long Beach. The following guidelines will be used to determine the consistency of a proposed action at any publicly owned site described above with this policy:

- 1) Existing access from adjacent or proximate public lands or facilities to existing public coastal lands and/or waters shall not be reduced, nor shall the possibility of increasing access in the future from adjacent or nearby public lands or facilities to public coastal lands and/or waters be eliminated, unless such actions are demonstrably of overriding statewide or regional public benefit, or estimates of future use of these lands and waters are too low to justify maintaining or providing increased access. A reduction in the existing level of public access includes, but is not limited to, the following:
  - pedestrian access is diminished or eliminated because of hazardous crossing required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities;
  - pedestrian access is diminished or blocked completely by public or private development.

An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following:

- construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreational resources or facilities;
- sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters;
- construction of private facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities.

- 2) The existing level of public access within public coastal lands or waters shall not be reduced or eliminated. A reduction in the existing level of public access includes, but is not limited to, the following:
  - access is reduced or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities;
  - access is reduced or blocked completely by any public developments.
- 3) Public access from the nearest public roadway to the shoreline and along the coast shall be provided by new land use or development, except where (a) it is inconsistent with public safety, military security, or the protection of identified fragile coastal resources; (b) adequate access exists within one-half mile; or (c) agriculture would be adversely affected. Such access shall not be required to be open to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.
- 4) The State and local government will not undertake or fund any project which increases access to a water-related resource or facility that is not open to all members of the public.
- 5) In their plans and programs for increasing public access, State agencies shall give priority in the following order to projects located: within the boundaries of the Federal-Aid Metropolitan Urban Area but not served by public transportation; outside the defined Urban Area boundary and served by public transportation; and outside and defined Urban Area boundary but not served by public transportation.
- 6) Proposals for increased public access to coastal lands and waters shall be analyzed according to the following factors:
  - the level of access to be provided should be in accord with estimated public use. If not, the proposed level of access to be provided shall be deemed inconsistent with this policy;
  - the level of access to be provided shall not cause a degree of use which would exceed the physical capability of the coastal land resource. If this were determined to be the case, the proposed level of access to be provided shall be deemed inconsistent with the policy.

The following is an explanation of the terms used in the above guidelines:

- a. See definitions under Policy 19 of "access" and "public lands or facilities".

- b. A reduction in the existing level of public access includes, but is not limited to, the following:
  - (1) pedestrian access is diminished or eliminated because of hazardous crossings required at new or altered transportation facilities, electric power transmission lines, or similar linear facilities;
  - (2) pedestrian access is diminished or blocked completely by public or private development.
  
- c. An elimination of the possibility of increasing public access in the future includes, but is not limited to, the following:
  - (1) construction of public facilities which physically prevent the provision, except at great expense, of convenient public access to public water-related recreation resources and facilities;
  - (2) sale, lease, or other conveyance of public lands that could provide public access to public coastal lands and/or waters;
  - (3) construction of private facilities which physically prevent the provision of convenient public access to public coastal lands and/or waters from public lands and facilities.

**POLICY 21**

**WATER-DEPENDENT AND WATER-ENHANCED RECREATION SHALL BE ENCOURAGED AND FACILITATED AND SHALL BE GIVEN PRIORITY OVER NON-WATER-RELATED USES ALONG THE COAST, PROVIDED THAT IT IS CONSISTENT WITH THE PRESERVATION AND ENHANCEMENT OF OTHER COASTAL RESOURCES, AND TAKES INTO ACCOUNT THE DEMAND FOR SUCH FACILITIES. IN FACILITATING SUCH ACTIVITIES, PRIORITY SHALL BE GIVEN TO AREAS WHERE ACCESS TO THE RECREATION OPPORTUNITIES OF THE COAST CAN BE PROVIDED BY NEW OR EXISTING PUBLIC TRANSPORTATION SERVICES, AND TO THOSE AREAS WHERE THE USE OF THE SHORE IS SEVERELY RESTRICTED BY EXISTING DEVELOPMENT.**

**Explanation of Policy**

In balancing competing interests, long-term safeguarding of irreplaceable natural coastal resources takes precedence over recreational activities which may threaten these resources. Existing recreational facilities within the Villages are adequate and occupy approximately 20% of their total land area. Expansion of any active recreational use, including marina or mooring

activities, south of the Long Beach spit into Stony Brook Harbor, or upstream of Short Beach into the Nissequogue River, could be detrimental to the preservation of coastal resources and habitats, and shall be carefully evaluated in terms of environmental impact and navigational safety. (See Policies 2,7,44)

**POLICY 22                    DEVELOPMENT, WHEN LOCATED ADJACENT TO THE SHORE, SHALL PROVIDE FOR WATER-RELATED RECREATION, AS A MULTIPLE USE, WHENEVER SUCH RECREATIONAL USE IS APPROPRIATE IN THE LIGHT OF REASONABLY ANTICIPATED DEMAND FOR SUCH ACTIVITIES, AND THE PRIMARY PURPOSE OF THE DEVELOPMENT.**

**Explanation of Policy**

In the Villages of Nissequogue and Head-of-the-Harbor, areas adjacent to the shore are zoned for low-density residential use; public and quasi-public institutional uses are allowed. Consequently, the types of allowed development which generally can provide water-related recreation as a multiple use are limited. If, as a result of development approval, there is the opportunity to provide water-related recreation, such water-related recreation shall be limited to passive recreation such as walking trails, nature observation areas and overlooks, in order to safeguard the habitat, scenic and environmental resources of the Nissequogue River and Stony Brook Harbor. In addition, approving agencies shall work with the developer to secure access to these sites for Village residents at large.

Appropriate recreational uses which do not require any substantial additional construction shall be provided at the expense of the project sponsor provided the cost does not exceed 2% of total project cost.

In determining whether there are compelling reasons which would make recreation as multiple use inadvisable, safety considerations should reflect a recognition that some risk is acceptable in the use of recreational facilities.

(See Policy 5)

**HISTORIC AND SCENIC RESOURCES POLICIES**

**POLICY 23                    PROTECT, ENHANCE, AND RESTORE STRUCTURES, DISTRICTS, AREAS, OR SITES THAT ARE OF SIGNIFICANCE IN THE HISTORY, ARCHITECTURE, ARCHAEOLOGY, OR CULTURE OF THE STATE, ITS COMMUNITIES, OR THE NATION.**

### Explanation of Policy

The Villages of Head-of-the-Harbor and Nissequogue are rich in structures, districts, areas and sites of significance in the history, architecture, archaeology and culture of the State, the local communities, and of the Nation.

The locality was settled in the mid-17th century; structures dating back as far as 1680 still exist, as well as numerous 18th and early 19th century houses, barns, and other farm buildings, some of which are recorded in the paintings of William Sidney Mount (1807-1868).

The following three National Register Districts along Route 25A have been certified in the Village of Head-of-the-Harbor: the North Country Road District, the Mills Pond District and the St. James District; Box Hill, located on Moriches Road, (the summer home of architect Stanford White), is listed as an individual landmark on the National and State Registers of Historic Places. Certification is expected for a thematic National Register District (Stony Brook Harbor Estate Houses (ca. 1689-1926)), which embraces the harborside of both Villages.

Lists of structures and sites of local significance, many of which are eligible for nomination to the National Register, have been compiled by Town and Village historians. There are 64 structures and sites in the Village of Nissequogue and over 100 in the Village of Head-of-the-Harbor. The Inventory and Analysis contains a listing of these National Register and locally significant architectural resources.

There are important archaeological sites in both Villages, showing substantial aboriginal population. In the Village of Head-of-the-Harbor, an Indian assembly area has been found at the extreme southern end of the Harbor. The Village of Nissequogue has the highest concentration of inhabited sites, stretching from the bluffs overlooking Smithtown Bay to James Creek Cove, the largest late archaic village complex on Long Island.

Given the high concentration of significant archaeological sites within the Villages of Nissequogue and Head-of-the-Harbor, public agencies shall contact the NYS Office of Parks, Recreation and Historic Preservation to determine appropriate protective measures to be incorporated into development decisions. These resources shall be protected to the greatest degree practicable.

Boards of Architectural Review have been established in both Villages to further the goal of preserving the rural character, natural beauty and significant architectural heritage of the Villages by ensuring that alterations, demolition, and new construction do not impair the visual and historic heritage of the Villages. Standards relating specifically to siting, design and construction of new structures or to alteration of structures not listed as being of local significance in the Inventory and Analysis are noted in Policy 25. Standards relating specifically to the alteration, demolition, removal, or relocation of structures within a National Register Historic District or considered of local historical significance and listed in the Inventory and Analysis are:

- 1) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose in keeping with the zoning regulations of each Village.
- 2) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature shall be avoided when possible.
- 3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.
- 4) Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and the significance shall be recognized and respected.
- 5) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity.
- 6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- 7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- 8) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

In undertaking direct actions or funding activities, public agencies must also use any techniques, measures or controls to prevent a significant adverse change to significant structures, districts, areas or sites. A significant adverse change includes, but is not limited to:

- 1) Alteration of, or addition to, one or more of the architectural, structural, ornamental, or functional features of a building, structure, or site that is a recognized historic, cultural, or archaeological resource, or component thereof.

Such features are defined as encompassing the style and general arrangement of the exterior of a structure or any original or historically significant interior features including type, color and texture of building materials; entry ways and doors; fenestration; lighting fixtures; roofing, sculpture and carving; steps; rails; fencing; windows; vents and other openings; grillwork; signs; canopies; and other appurtenant fixtures and, in addition, all buildings, structures, outbuildings, walks, fences, steps, topographical features, earthworks, paving and signs located on the designated resource property. (To the extent they are relevant, the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" shall be adhered to.)

- 2) Demolition or removal in full or part of a building, structure or earthworks that is a recognized historic, cultural, or archaeological resource or component thereof, to include all those features describe in (1) above plus any other appurtenant fixture associated with a building structure or earthwork.
- 3) All proposed actions within 500 feet of the perimeter of the property boundary of the historic, architectural, cultural, or archaeological resource and all actions within a historic district that would be incompatible with the objective of preserving the quality and integrity of the resource. Primary considerations to be used in making judgments about compatibility should focus on the visual and locational relationship between the proposed action and the special character of the historic, cultural, or archaeological resource. Compatibility between the proposed action and the resource means that the general appearance of the resource should be reflected in the architectural style, design, material, scale, proportion, composition, mass, line, color, texture, detail, setback, landscaping and related items of the proposed actions. Actions proposed for historic structures, districts, areas, and sites shall be undertaken in a manner that will result in the least destruction of visual amenities---with, for example, minimal removal of trees---and the greatest harmony with existing resources.

This policy shall not be construed to prevent the construction, reconstruction, alteration, or demolition of any building, structure, earthwork, or component thereof, of a recognized historic, cultural, or archaeological resource which has been officially certified as being imminently dangerous to life or public health. Nor shall the policy be construed to prevent the ordinary maintenance, repair, or proper restoration, according to the U.S. Department of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, of any building, structure, site or earthwork, or component thereof of a recognized historic, cultural or archaeological resource which does not involve a significant adverse change to the resource, as defined above.

**POLICY 24**

**PREVENT IMPAIRMENT OF SCENIC RESOURCES OF STATEWIDE SIGNIFICANCE, AS IDENTIFIED ON THE COASTAL AREA MAP. IMPAIRMENT SHALL INCLUDE: I) IRREVERSIBLE MODIFICATION OF GEOLOGIC FORMS, THE DESTRUCTION OR REMOVAL OF VEGETATION OR STRUCTURES WHENEVER THE GEOLOGICAL FORM, VEGETATION OR STRUCTURE ARE SIGNIFICANT TO THE SCENIC QUALITY OF AN IDENTIFIED RESOURCE; AND II) THE ADDITION OF STRUCTURES WHICH BECAUSE OF SITING OR SCALE WILL REDUCE IDENTIFIED VIEWS OR WHICH BECAUSE OF SCALE, FORM OR MATERIALS WILL DIMINISH THE SCENIC QUALITY OR AN IDENTIFIED RESOURCE.**

**Explanation of Why Policy is Not Applicable**

No scenic resources of statewide significance have as yet been identified and listed in the Villages of Head-of-the-Harbor or Nissequogue.

**POLICY 25**

**PROTECT, RESTORE, OR ENHANCE NATURAL OR MANMADE RESOURCES WHICH ARE NOT IDENTIFIED AS BEING OF STATEWIDE SIGNIFICANCE BUT WHICH CONTRIBUTE TO THE OVERALL SCENIC QUALITY OF THE COASTAL AREA.**

**Explanation of Policy**

The coastal area of the Villages of Nissequogue and Head-of-the-Harbor includes natural and historic features which in total comprise a diverse scenic resource of high quality.

The topography of the coastal area creates not only opportunities for vistas but also provides backdrops of sloping, wooded hills which contrast with tidal flats, marshes and wetlands along Stony Brook Harbor and the Nissequogue River. On the northern boundary of the coastal area facing Smithtown Bay, the broad sweep of the Bay is fully visible from the Town beach on the Long Beach peninsula. Viewed from the beaches, the dramatic bluffs circling the Bay give it definition and create a vertical contrast to the flat expanses of beach and water. The bluffs along Smithtown Bay offer expansive vistas of the bay. Smithtown Bay is a protected area for swimming and boating. Porpoise Channel, the access to the Town and private marinas in Stony Brook Harbor, exits into Smithtown Bay. Consequently, views of the beaches and the bluffs from the water are important.

Stony Brook Harbor is framed on three sides by gentle, wooded slopes, beaches and wetland habitats. The mouth of the harbor is characterized by tidal flats, wetlands and Youngs Island-set in a somewhat meandering channel leading to Smithtown Bay. Marinas, a boat basin, and a 600 car parking lot are the principal man-made uses in this area. Viewed from the southern part of the harbor, this area is one of highly visible and intensive uses. While the marinas and boat

basin create some visual interest and color, the parking lot does detract from this scene. Small sailboats, windsurfers and other boats are active in the harbor and add not only color but movement to the scene. The views across the small enclosed area of Stony Brook Harbor from any point on its shoreline are unusual for tranquility, harmony, a blend of rural landscape background with a foreground of water and wetland marshes, and the unobtrusive but graceful presence of examples of architecture which are, in many cases, historic in nature as well as of high aesthetic quality.

The shoreline's irregular edges, marked by wetland vegetation, provides not only rich habitat areas, but also lends an ephemeral quality to the point where water blends into land. The tidal lands and wetland vegetation unifies the shoreline around the harbor.

The largely deciduous woodlands surrounding the harbor offer a sense of enclosure. The trees give strong vertical contrast to the horizontal plane of the water in the winter, and soften the topography when the leaves are out. The trees screen most of the structures around the harbor and soften the lines of those which are visible.

The residences surrounding the harbor, whether historic or more recent, are notable for their sensitive siting. There is a good relationship to topography, as well as subtle coloring, use of materials and shapes, which makes each contribute to the harmonious character of the harbor.

These attractive water views of Stony Brook Harbor are accessible from many points on Head-of-the-Harbor Village roads and landings, specifically Cordwood Path, Harbor Road and the four Village landings. Harbor views from the Village of Nissequogue include expansive views across Porpoise Channel toward the southern end of the Harbor.

The Nissequogue River corridor within the jurisdiction of the Village of Nissequogue offers a complex series of views ranging from isolated shady stretches to broad, quiet estuarine areas to dunes at its confluence with Long Island Sound. The lower reaches of the river are characterized by steep banks, broad floodplains and a high degree of vegetative cover. The river widens substantially to become a full fledged estuarine system. As the river widens, vegetative enclosure of views lessens. Steep slopes continue to occur and large tidal wetland areas predominate at the water's edge. At the mouth of the river, the visual characteristics are complex, with dunes, broad tidal marshes and high escarpments. The entire length of the river corridor in the Village is heavily wooded with few structures visible from the water. The area of most visible manmade intrusion is the parking area at Short Beach Town Park. The views of the river looking toward the Village are of a highly natural and undisturbed corridor. The Nissequogue River has been designated as a Scenic and Recreational River. Within the Village, the river is classified as a Recreational River.

Other landscape views, often including fine examples of historic architecture and gardens, are available from Village roads. In both Villages, roads can be characterized as narrow, winding country lanes. They are closely related to the topography. Wooded lands on both sides of the roads gives a sense of enclosure and opens up to more pastoral views of farm fields, open space

and garden settings for large historic houses. The Mill Pond and Grist Mill on Harbor Road are additional historic resources which add character to the scenic environment of Head-of-the-Harbor.

All these attributes are observable in any season, and the seasonal progression itself, in colors and emergent land shapes and wildlife population, is of great scenic interest. Stony Brook Harbor offers an overwhelming sense of naturalness, enclosure by woodlands, and diversity.

In order to preserve this rural character and the expansive views of Stony Brook Harbor, Smithtown Bay and the Mill Pond, the following siting and facility-related guidelines are to be used to achieve this policy. Specific development standards set forth in 6 NYCRR Part 666, Statewide Wild, Scenic and Recreational Rivers System Regulations, shall apply within the designated Recreational River boundary of the Village of Nissequogue.

Development guidelines pertaining to lands within the Villages of Head-of-the-Harbor and Nissequogue, outside of the designated Recreational River boundary, are as follows:

- 1) Structures, including roads, power lines and signs shall be sited back from shorelines or in other inconspicuous locations to maintain the attractive quality of the shoreline and to retain views to and from the shore. In both Villages, all structures, other than docks, shall be located no closer to Stony Brook Harbor than one hundred (100) feet from mean high water or from the landward edge of a bluff. No structure, other than a dock, shall be located within one hundred (100) feet of the Stony Brook Mill Pond in the Village of Head-of-the-Harbor.
- 2) Structures shall be oriented to retain views, save open space and provide visual organization to a site.
- 3) Structures shall not exceed thirty-four (34) feet in height as measured from the finished grade to the highest point on the roof for flat roofs, to the deck line for mansard roofs, and to mean height between eaves and ridge for gable, hip and gambrel roofs. Accessory structures shall not exceed eighteen (18) feet in height.

The overall site topography and vegetative density and type shall be retained and maintained to the maximum extent during and after site development.

- 4) The maximum ground floor area of a residential structure shall not exceed 2000 square feet per two (2) acres. The maximum ground floor area may be exceeded provided that for each five hundred (500) square feet of additional ground floor area, an additional one-half acre is added to the required minimum lot size.
- 5) No trees or other vegetation shall be removed from any public place unless the Board of Architectural Review has determined that the visual values of the area will not be adversely affected or that suitable mitigation shall be provided.

- 6) Removal or destruction of trees and other vegetative cover on private property shall not exceed twenty-five percent (25%) of the total vegetative cover on the property nor shall any tree or other vegetation be removed within twenty-five (25) feet of any property line without the review and expressed approval of the Village.
- 7) If open land without roadside trees is developed, trees at least two (2) inches in diameter and of a similar type to trees in the immediate vicinity, shall be planted along the Village road within ten (10) feet of the Village right-of-way to maintain the rural character of the Village.
- 8) The mass, shape, color, reflective qualities, and texture of materials to be used in a structure shall be a harmonious complement to adjacent properties, the overall site topography and vegetative composition from roads, water or opposite shoreline.
- 9) In the Long Beach Town Park, the Town of Smithtown is encouraged to provide native dune environment vegetation around the perimeter of parking lots to filter runoff and to screen cars.
- 10) In the Long Beach Town Park, the Town of Smithtown is encouraged to use natural materials for bollards, tire stops, lighting standards, trash receptacles and structure sidings. In addition, structures should be sensitively designed in terms of materials, colors and building mass and sited in relationship to the topography. Signage should be controlled and minimized in terms of size and number of signs. Use of natural materials and creative graphics is encouraged.
- 11) Wherever they occur, degrading or deteriorated elements, either man-made or vegetative, should be removed, screened or otherwise mitigated.
- 12) Historic structures and landscapes shall be retained, if practicable, as an important component of the visual environment.

In addition to the above guidelines, the following development standards, drawn from 6 NYCRR 666, shall apply within the designated Recreational River boundary of the Nissequogue River within the Village of Nissequogue:

- 1) If required under Part 666, all persons shall obtain a rivers system permit prior to any land development, as defined in Part 666.
- 2) New structures other than fences, poles, docks, bridges, water access parking areas, boat launching sites, and agricultural use structures shall be constructed beyond either:

- a. the limit of the 100 year flood plain as determined by the federal insurance administrator pursuant to the national flood insurance program;  
or
  - b. one hundred fifty (150) feet from the mean high water mark, whichever distance is greater.
- 3) New structures constructed within five hundred (500) feet of the mean high water mark of the river except fences, poles, docks, bridges, fishermen parking areas, boat launching sites, and agricultural use structures shall be screened by vegetation or topographic features from the view of persons who may be on the river.

No new structure shall exceed thirty-four (34) feet in height as measured from the lowest point of grade elevation of the structure to the highest point of the structure, except for utility poles (see 6 NYCRR Part 666.3).

- 4) New structures shall be designed and developed in such a manner as to prevent significant erosion or direct runoff to the river.
- 5) Bridges spanning the Nissequogue River are not permitted on land within the jurisdiction of the Village of Nissequogue.
- 6) Any new dock, boat launching site, or water access parking area shall not impede the natural flow of the river, and shall be so designed and developed as to minimize its intrusion, if any, into the river.
- 7) Residential lots shall be at least two (2) acres, and if the lot fronts on the river, the shoreline frontage shall be at least two hundred (200) feet.
- 8) No new public or private road shall be located inside or within five hundred (500) feet of the mean high water mark.
- 9) If there is no other vehicular access to a new or existing land use or development, a new private road may be allowed with a permit only if the road is not open to the general public, if it is located at all points at least as far from the river as the land use or development to which it will provide access, and if it is not located inside or within one hundred (100) feet of the mean high water mark.
- 10) Any new public or private road or trail and any new bridge associated with such road or trail, and running generally parallel to and not spanning the river, shall be located, designed and constructed to minimize its visibility from the river, to minimize alteration of the environment and avoid undue adverse environment

impact, and shall be effectively restricted to those uses specified, by the person undertaking the action.

- 11) Any bridge associated with a new trail (not spanning the river) shall be constructed of naturally occurring materials such as wood and stone, to the extent feasible.
- 12) River crossings by public utilities shall be located only where impacts to the scenic qualities of the river are minimized and, to the extent feasible, shall be confined to those points where crossings already exist. In no case shall such crossings be closer than two (2) miles.
- 13) All structures connected with a utility use shall be located, designed and constructed to avoid adverse environmental impact and to minimize visibility from the river and from other parts of the river area.
- 14) Forestry practices, including the harvesting of a forest woodland or plantation or other types of cuttings planned as part of a deliberate forest management program, and support structures such as roads, skidways and logging landings are prohibited in the Village of Nissequogue. Conservation practices, including removal of diseased, dead or rotten trees or other vegetation that pose a safety or health hazard, may be undertaken in a responsible manner inside or within one hundred (100) feet of the mean high water.
- 15) Selected and dispersed cutting of vegetation shall be allowed to the extent necessary to create a view of the river from any new structure or from any lawfully existing structure lacking such a view, where cutting would cause no undue adverse environmental impact, particularly with respect to the stability of the river bank and the aesthetic character of the river shoreline and where adequate screening of the structures from the view of persons who may be on the river is provided and maintained. Trees to be removed shall not, however, exceed eight (8) inches in diameter unless their removal has been approved by the Village Planning Board. Trees removed shall not exceed 25% of the tree cover on a parcel and no healthy tree shall be removed within 25 feet of a property line without permission from the Village.

(See Policies 7,11,14,23,44)

**POLICY 26**

**TO CONSERVE AND PROTECT AGRICULTURAL LANDS IN THE STATE'S COASTAL AREA, AN ACTION SHALL NOT RESULT IN LOSS, NOR IMPAIR THE PRODUCTIVITY, OF IMPORTANT AGRICULTURAL LANDS, AS IDENTIFIED ON THE COASTAL AREA MAP, IF THAT LOSS OR IMPAIRMENT WOULD**

**ADVERSELY AFFECT THE VIABILITY OF AGRICULTURE IN AN AGRICULTURAL DISTRICT OR IF THERE IS NO AGRICULTURAL DISTRICT, IN AN AREA SURROUNDING SUCH LANDS.**

**Explanation of Policy**

Nearly 216 acres or 13% of the Village of Head-of-the-Harbor and 88 acres or 4% of the Village of Nissequogue are classified as active agricultural land. Land under cultivation in the two Villages is unique and often prime, agricultural soil. Horse farms predominate in the Village of Nissequogue, while there are vegetable growers in the Village of Head-of-the-Harbor. The Perry Farm, between State Route 25A and Shep Jones Lane in the Village of Head-of-the-Harbor, is preserved under the Suffolk County Farmland Preservation Program. There are no agricultural districts or lands under individual commitment pursuant to Article 25AA of the Agriculture and Markets Law.

Development pressures and high market values for land have been the primary cause of the decreasing agricultural acreage in both Villages. The agricultural land which remains benefits the Villages as sources of open space, as reminders of their agricultural history, and as producers of fresh crops and animal services which directly benefit the local residents and economy.

In order to encourage the retention of and the active farming of the remaining agricultural land the following development standards shall apply wherever possible:

- 1) Within the Village of Head-of-the-Harbor:
  - a. Active and prime agricultural soils are environmentally significant areas. On parcels of at least ten (10) acres which are part of an active farm, the siting of residential development in a manner to promote the retention of open space shall be preferred and encouraged. Land in the Suffolk County Preservation Program, in conservation or other easements, or under forms of reservation shall not be included when calculating the density yield of the parcel.
  - b. Any portion of a parcel to be reserved for continued agricultural use shall be that part most suited for agriculture in terms of soil capability, slope, proximity to roads, and configuration for efficient farm production, the determination to be made in consultation with the Suffolk County Cooperative Extension and the Soil Conservation Service.
  - c. Where separate agricultural parcels abut, or are in close proximity, development proposals shall be designed so that a contiguous, efficient agricultural parcel results, or movement of machinery is minimized.

- d. Landscape buffering shall be required at the periphery of the residential use area abutting the agricultural use parcel to minimize disruption of both land uses.

2) Within the Village of Head-of-the-Harbor and the Village of Nissequogue:

- a. No person shall cut fences, dump trash, garbage or waste material, destroy field crops or produce, harass farm animals or otherwise interfere with a farm business.
- b. Prior to issuance of subdivision approval, involved public agencies and the property owner shall consult with private foundations, land trusts and organizations and the Suffolk County Farmland Preservation Program to ensure that all efforts to maintain the entire parcel in agricultural production have been explored and that no option other than subdivision and partial conversion remains. In order to make this consultation requirement less burdensome on the applicant, the Villages shall identify appropriate organizations and establish potential acquisition scenarios for existing agricultural lands.

**ENERGY AND ICE MANAGEMENT POLICIES**

**POLICY 27      DECISIONS ON THE SITING AND CONSTRUCTION OF MAJOR ENERGY FACILITIES IN THE COASTAL AREA WILL BE BASED ON PUBLIC ENERGY NEEDS, COMPATIBILITY OF SUCH FACILITIES WITH THE ENVIRONMENT, AND THE FACILITY'S NEED FOR A SHOREFRONT LOCATION.**

**Explanation of Policy**

Demand for energy in New York will increase, although at a rate slower than previously predicted. The State expects to meet these energy demands through a combination of conservation measures; traditional and alternative technologies; and use of various fuels, including coal, in greater proportion.

A determination of public need for energy is the first step in the process for siting any new facilities. The directives for determining this need are set forth in the New York State Energy Law. With respect to transmission lines and steam electric generating facilities, Articles VII and VIII of the State's Public Service Law require additional forecasts and establish the basis for determining the compatibility of these facilities with the environment and the necessity for a shorefront location. The policies derived from the siting regulations under these Articles are entirely consistent with the general coastal zone policies derived from other laws, particularly the regulations promulgated pursuant to the Waterfront Revitalization and Coastal Resources Act.

That Act is used for the purposes of ensuring consistency with the State Coastal Management Program and this Local Waterfront Revitalization Program.

In consultation with the Villages of Head-of-the-Harbor and Nissequogue, the Department of State will comment on the State Energy Office policies and planning reports as may exist; present testimony for the record during relevant certification proceedings under Articles VII and VIII of the PSL; and use the State SEQRA and DOS regulations to ensure that decisions on other proposed energy facilities (other than transmission facilities and steam electric generating plants) which would impact the waterfront area are made consistent with the policies and purposes of the Villages of Head-of-the-Harbor and Nissequogue Local Waterfront Revitalization Program.

The siting and construction of major energy facilities in the Villages of Head-of-the-Harbor and Nissequogue is impracticable and inappropriate given the topography, difficult access and shallow waters; the low intensity residential use of all Village areas, and the Villages' character and physical sensitivity to development constraints. The construction of major energy facilities in the Villages would cause irreversible harm to the Village waterfront areas of Stony Brook Harbor, the Nissequogue River, or Smithtown Bay.

**POLICY 28**            **ICE MANAGEMENT PRACTICES SHALL NOT DAMAGE SIGNIFICANT FISH AND WILDLIFE AND THEIR HABITATS, INCREASE SHORELINE EROSION OR FLOODING, OR INTERFERE WITH THE PRODUCTION OF HYDROELECTRIC POWER.**

**Explanation of Why Policy is Not Applicable**

Ice management is not currently undertaken in the coastal area of the Villages of Head-of-the-Harbor and Nissequogue.

**POLICY 29**            **ENCOURAGE THE DEVELOPMENT OF ENERGY RESOURCES ON THE OUTER CONTINENTAL SHELF, IN LAKE ERIE AND IN OTHER WATER BODIES, AND ENSURE THE ENVIRONMENTAL SAFETY OF SUCH ACTIVITIES.**

**Explanation of Policy**

The Villages of Nissequogue and Head-of-the-Harbor concur with this policy and encourage development of indigenous energy sources in those areas where it is environmentally safe and appropriate.

## WATER AND AIR RESOURCES POLICIES

**POLICY 30**            **MUNICIPAL, INDUSTRIAL, AND COMMERCIAL DISCHARGE OF POLLUTANTS, INCLUDING BUT NOT LIMITED TO, TOXIC AND HAZARDOUS SUBSTANCES, INTO COASTAL WATERS WILL CONFORM TO STATE AND NATIONAL WATER QUALITY STANDARDS.**

### Explanation of Policy

Municipal, industrial and commercial discharges include not only "end-of-the-pipe" discharges into surface and groundwater but also plant site runoff, leaching, spillages, sludge and other waste disposal, and drainage from raw material storage sites. Also, the regulated industrial discharges are both those which directly empty into receiving coastal waters and those which pass through municipal treatment systems before reaching the State's waterways.

**POLICY 31**            **STATE COASTAL AREA POLICIES AND PURPOSES OF APPROVED LOCAL WATERFRONT REVITALIZATION PROGRAMS WILL BE CONSIDERED WHILE REVIEWING COASTAL WATER CLASSIFICATIONS AND WHILE MODIFYING WATER QUALITY STANDARDS; HOWEVER, THOSE WATERS ALREADY OVER-BURDENED WITH CONTAMINANTS WILL BE RECOGNIZED AS BEING A DEVELOPMENT CONSTRAINT.**

### Explanation of Policy

Pursuant to the Federal Clean Water Act of 1977 (PL 95-217) the State has classified its coastal and other waters in accordance with considerations of best usage in the interest of the public and has adopted water quality standards for each class of waters. These classifications and standards are reviewable at least every three years for possible revision or amendment. The Nissequogue River is presently classified as an SC waterbody and is closed to shellfishing due to E. coli contamination from stormwater runoff. Stony Brook Harbor is at present classified as an SA waterbody, suitable for shellfishing in designated sections.

The goal of the Villages' Local Waterfront Revitalization Program is to maintain the quality of Stony Brook Harbor by controlling runoff, sedimentation and waste discharge from vessels. Consequently, the SA classification should be maintained.

Runoff control standards, provision of adequate pumpout facilities, and boater education will help to improve the quality of the Nissequogue River.

**POLICY 32**            **ENCOURAGE THE USE OF ALTERNATIVE OR INNOVATIVE SANITARY WASTE SYSTEMS IN SMALL COMMUNITIES WHERE THE COSTS OF CONVENTIONAL FACILITIES ARE**

**UNREASONABLY HIGH, GIVEN THE SIZE OF THE EXISTING  
TAX BASE OF THESE COMMUNITIES.**

**Explanation of Policy**

Alternative systems include individual septic tanks and other subsurface disposal systems, dual systems, small systems serving clusters of households or commercial users, and pressure or vacuum sewers. These types of systems are often more cost effective in smaller less densely populated communities and for which conventional facilities are too expensive.

There is no sewerage system within the Villages. All waste disposal systems are privately owned on-site cesspools and septic tanks which are approved by the Suffolk County Department of Health.

The Villages recognize that such sanitary systems are potential sources of ground and surface water pollution, however, they lack the authority to approve innovative systems. Currently, no innovative systems are approved for use within Suffolk County. The Villages will urge the County to explore suitable alternative systems for coastal communities.

The Villages will request the Suffolk County Department of Health to schedule periodic inspections of existing septic systems and cesspools to ensure that they are functioning to the highest level to reduce the potential for contamination of water supplies and habitats.

**POLICY 33           BEST MANAGEMENT PRACTICES SHALL BE USED TO ENSURE  
THE CONTROL OF STORMWATER RUNOFF AND COMBINED  
SEWER OVERFLOWS DRAINING INTO COASTAL WATERS.**

**Explanation of Policy**

Best management practices include both structural and non-structural methods of preventing or mitigating pollution caused by the discharge of stormwater runoff and combined sewer overflows. At present, structural approaches to controlling stormwater runoff (e.g., construction of retention basins) and combined sewer overflows (e.g., replacement of combined system with separate sanitary and stormwater collection systems) are not economically feasible. Proposed amendments to the Clean Water Act, however, will authorize funding to address combined sewer overflows in areas where they create severe water quality impacts. Until funding for such projects becomes available, non-structural approaches, such as improved street cleaning and reduced use of road salt, will be encouraged.

The following guidelines and techniques shall be used in managing stormwater runoff in the Villages of Head-of-the-Harbor and Nissequogue in order to prevent degradation of the coastal waters and landscape:

- 1) There shall be no direct discharge of stormwater runoff to surface waters, marshes, and wetlands. Stormwater pollutants shall be attenuated by using holding ponds, sedimentation basins, perimeter berming, vegetated buffer areas and other measures that reduce flow velocity and increase storage time. Water discharge from these systems shall be of acceptable quality before discharge into wetlands and surface waters. In addition, any filtering devices constructed as part of the drainage system must be adequately maintained in order to function properly.
- 2) During the construction period, disposal of stormwater runoff generated by development activity shall be handled on-site. Baling, mulching, use of fibrous cover materials or similar measures shall be used to contain soil erosion on the site.
- 3) All projects, regardless of the area of groundcover removal and/or grading, shall retain a natural vegetative buffer zone along waterbodies, including wetlands and marshes, which will confine visible siltation to the 25% of the buffer zone nearest to any land disturbing activity. If necessary, other forms of erosion control measures will also be included.
- 4) Natural land features such as shallow depressions shall be used, wherever possible, to collect stormwater on-site for recharge. Under no circumstances however shall such a feature be used if subsurface conditions cause a stagnate pool to develop.
- 5) Site designs shall reduce impermeable paving.
- 6) Reconstruction of Village roads shall result in stabilized road shoulders which eliminate or mitigate current erosion problems. To the maximum extent practicable, vegetation shall be used as a stabilizer and method of filtering and slowing stormwater flow from road surfaces.
- 7) The use of de-icing salts on roads shall be reduced.

(See Policies 7,14,37,44)

**POLICY 34**

**DISCHARGE OF WASTE MATERIALS INTO COASTAL WATERS FROM VESSELS WILL BE LIMITED SO AS TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATIONAL AREAS, AND WATER SUPPLY AREAS.**

**Explanation of Policy**

The discharge of sewage, garbage, rubbish, and other solid and liquid materials from watercraft and marinas into the State's waters is regulated. Priority will be given to enforcement in areas such as shellfish beds and other significant habitats, beaches, and public water supply intakes, which need protection from contamination by vessel wastes. Specific effluent standards for marine toilets have been established in the Clean Water Act of 1977 (33 USCA 1322) and is enforced by the U.S. Coast Guard.

Due to the sensitivity of the Nissequogue River and Stony Brook Harbor as habitats and recreation areas and to the physical constraints which prevent adequate flushing, it is critical that discharge or dumping of any material be prohibited. The Towns of Smithtown and Brookhaven are encouraged to install or require installation of adequate pumpout facilities. Pumpout facilities shall be required of private marinas under the jurisdiction of the Villages without delay. Violations of Federal waste discharge regulations are increasing in frequency and noticeability with the result that shellfish beds in the coastal waters of Head-of-the-Harbor and Nissequogue are closed for harvesting.

(See Policies 6,7,31,44)

**POLICY 35            DREDGING AND DREDGE SPOIL DISPOSAL IN COASTAL WATERS WILL BE UNDERTAKEN IN A MANNER THAT MEETS EXISTING STATE DREDGING PERMIT REQUIREMENTS, AND PROTECTS SIGNIFICANT FISH AND WILDLIFE HABITATS, SCENIC RESOURCES, NATURAL PROTECTIVE FEATURES, IMPORTANT AGRICULTURAL LANDS, AND WETLANDS.**

**POLICY 35A        NO DREDGING SHALL OCCUR WITHOUT A COMPREHENSIVE DREDGING PLAN BASED UPON DETAILED HYDRAULIC AND ENVIRONMENTAL ANALYSIS.**

**POLICY 35B        DREDGE SPOIL DISPOSAL SHALL BE UNDERTAKEN IN A MANNER WHICH DOES NOT RESULT IN THE INTRODUCTION OR REINTRODUCTION OF DREDGED MATERIAL INTO STONY BROOK HARBOR OR THE NISSEQUOGUE RIVER.**

**Explanation of Policy**

In Stony Brook Harbor and the Nissequogue River, the need for dredging is limited because navigational needs do not extend beyond recreational boats reaching existing marinas. The 1977 Suffolk County Regional Marine Resources Council Dredging Advisory Committee excluded Stony Brook Harbor inlet from consideration for dredging. Past dredging activities have resulted in adverse environmental impacts including disruption of habitats, changes in tidal range, and accelerated siltation, especially at the head of Stony Brook Harbor, and destruction of wetlands.

The Villages of Nissequogue and Head-of-the-Harbor joined New York State, Suffolk County and the Sea Grant Institute in financing the development of a predictive model to test the impact of dredging proposals on Stony Brook Harbor. Future dredging projects reviewed, approved, funded or undertaken by New York State, the Town of Smithtown, the Town of Brookhaven or Suffolk County should be undertaken in a manner consistent with a comprehensive dredging plan based on this jointly-financed predictive model. A similar predictive model should be developed for the Nissequogue River.

The comprehensive dredging plan shall be premised on maintaining a balance among environmental quality, social and cultural values, and economic uses. In order to fully evaluate the impacts of proposed dredging options, and to minimize and mitigate adverse effects, the dredging plan shall incorporate the predictive model developed by the Marine Sciences Research Center, SUNY - Stony Brook, and described in "Prediction of Tidal Hydraulics and Sediment Transport Patterns in Stony Brook Harbor", Moon-Jin Park, August 1985. In addition, the dredging plan shall incorporate a limitation on boat drafts and the use of bathymetric surveys as means of minimizing large-scale dredging and its adverse effects.

The dredging plan should also minimize the duration and frequency of dredging. It should minimize the changes in tidal range. It should also minimize impacts away from areas needed for boat access to existing marinas which are being dredged.

There is a one-third rate of return of dredge material to Stony Brook Harbor resulting from improper disposal on wetlands and on Young's Island. Any future disposal of dredge material shall not be located on wetlands within the ownership or jurisdiction of either Village. Dredge spoil disposal shall not occur on Young's Island or on other lands bordering Stony Brook Harbor. Appropriate disposal methods shall be contained in the dredging plan.

Within the Village of Nissequogue, no dredged material shall be deposited in a manner which causes it to be reintroduced into the Nissequogue River or causes erosion and sloughing of the receiving land.

Use of the dredged material which is of suitable quality and characteristics for beach nourishment is encouraged, provided it does not hasten the need for redredging.

(See Policy 15)

**POLICY 36**

**ACTIVITIES RELATED TO THE SHIPMENT AND STORAGE OF PETROLEUM AND OTHER HAZARDOUS MATERIALS WILL BE CONDUCTED IN A MANNER THAT WILL PREVENT OR AT LEAST MINIMIZE SPILLS INTO COASTAL WATERS; ALL PRACTICABLE EFFORTS WILL BE UNDERTAKEN TO EXPEDITE THE CLEAN-UP OF SUCH DISCHARGES; AND RESTITUTION FOR DAMAGE WILL BE REQUIRED WHEN THESE SPILLS OCCUR.**

**Explanation of Policy**

Hazardous wastes are unwanted by-products of manufacturing processes generally characterized as being flammable, corrosive, reactive or toxic. More specifically, hazardous waste is defined in Environmental Conservation Law (Section 27-0901 (3)) as "waste or combination of wastes which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed. The list of DEC defined hazardous wastes is provided in 6 NYCRR Part 371.

Commercial and industrial uses which would involve the manufacture, storage or shipment of petroleum and hazardous wastes are prohibited by the respective zoning laws of the Villages of Head-of-the-Harbor and Nissequoque.

Delivery of domestic fuel oil done in a workmanlike manner is not deemed to pose a threat to coastal waters.

Increasing use of diesel fuel in marinas can cause water quality problems if not stored and transferred properly.

**POLICY 37            BEST MANAGEMENT PRACTICES WILL BE UTILIZED TO MINIMIZE THE NON-POINT DISCHARGE OF EXCESS NUTRIENTS, ORGANICS, AND ERODED SOILS INTO COASTAL WATERS.**

**Explanation of Policy**

Best management practices used to reduce these sources of pollution could include, but are not limited to, encouraging organic gardening and pest management in reference to chemical fertilizers and pesticides; soil erosion control; surface drainage control; and erosion control practices on construction projects as described under Policies 14 and 33.

In residential areas such sources of pollution are usually connected with lawn and garden maintenance. The use of pesticides, herbicides and organic compounds which can degrade surface and groundwater quality will be discouraged through public education programs and by encouraging the use of landscape materials which are native to Long Island. (See Policies 5,7,8,14 & 23)

**POLICY 38            THE QUALITY AND QUANTITY OF SURFACE WATER AND GROUND WATER SUPPLIES WILL BE CONSERVED AND PROTECTED, PARTICULARLY WHERE SUCH WATERS**

**CONSTITUTE THE PRIMARY OR SOLE SOURCE OF WATER SUPPLY.**

**Explanation of Policy**

Surface and groundwater are the principal sources of drinking water in the State, and therefore must be protected. Since Long Island's groundwater supply has been designated a sole source aquifer, all actions must be reviewed relative to their impacts on Long Island's groundwater aquifers.

The Villages of Head-of-the-Harbor and Nissequogue, by exercising a policy of low density zoning, and of strict control over the siting of structures, have established practices of conservation and protection of groundwater supplies. As nearly all the domestic water supplies in the Villages are derived from private wells, the need for such conservation practices is self-evident. Therefore, the current (1 and 2 acre) minimum lot size specified in the zoning ordinances of both Villages will be retained.

Neither Head-of-the-Harbor nor Nissequogue has a municipal sewerage system. However, the likelihood of pollution of coastal waters due to septic system leachate is mitigated by the large minimum lot size, prohibition against location of any part of an individual waste disposal system within 150 feet of mean high water or within 150 feet of any non-tidal waterbody, and prohibition against locating a septic system in areas having a seasonal high water table of less than three (3) feet.

(See Policies 5,7,8,11,14,23,37,44)

**POLICY 39            THE TRANSPORT, STORAGE, TREATMENT AND DISPOSAL OF SOLID WASTES, PARTICULARLY HAZARDOUS WASTES, WITHIN COASTAL AREAS WILL BE CONDUCTED IN SUCH A MANNER SO AS TO PROTECT GROUNDWATER AND SURFACE WATER SUPPLIES, SIGNIFICANT FISH AND WILDLIFE HABITATS, RECREATION AREAS, IMPORTANT AGRICULTURAL LANDS AND SCENIC RESOURCES.**

**Explanation of Policy**

The definitions of terms "solid waste" and "solid waste management facilities" are taken from New York's Solid Waste Management Act (Environmental Conservation Law, Article 27). Solid wastes include sludges from air or water pollution control facilities, demolition and construction debris and industrial and commercial wastes.

Hazardous wastes are unwanted by-products of manufacturing processes generally characterized as being flammable, corrosive, reactive, or toxic. More specifically, "waste is defined in Environmental Conservation Law (Section 27-0901 (3)) as waste or combination of wastes which

because of its quantity, concentration, or physical, chemical or infectious characteristics may: (1) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed." A list of hazardous wastes is contained in 6 NYCRR 371.

Examples of solid waste management facilities include resource recovery facilities, sanitary landfills and solid waste reduction facilities. Although a fundamental problem associated with the disposal and treatment of solid wastes is the contamination of water resources, other related problems may include: filling of wetlands and littoral areas, atmospheric loading, and degradation of scenic resources.

Facilities for the handling, storage, treatment and disposal of solid wastes are currently prohibited under the zoning regulations or other applicable local laws of the Villages of Nissequogue and Head-of-the-Harbor. Local regulations shall not be amended to introduce such uses.

Transshipment of wastes through the Villages will be undertaken in a manner which complies with applicable County and State laws.

(See Policies 1,5,7,8,25,38,44)

**POLICY 40            EFFLUENT DISCHARGED FROM MAJOR STEAM ELECTRIC GENERATING AND INDUSTRIAL FACILITIES INTO COASTAL WATERS WILL NOT BE UNDULY INJURIOUS TO FISH AND WILDLIFE AND SHALL CONFORM TO STATE WATER QUALITY STANDARDS.**

Explanation of Policy

The State Board on Electric Generation Siting and the Environment must consider a number of factors when reviewing a proposed site for facility construction. One of these factors is that the facility "not discharge any effluent that will be unduly injurious to the propagation and protection of fish and wildlife, the industrial development of the State, the public health, and public enjoyment of the receiving waters." The effects of thermal discharges on water quality and aquatic organisms will be considered by the siting board when evaluating an applicant's request to construct a new steam electric generating facility.

**POLICY 41            LAND USE OR DEVELOPMENT IN THE COASTAL AREA WILL NOT CAUSE NATIONAL OR STATE AIR QUALITY STANDARDS TO BE VIOLATED.**

### Explanation of Policy

New York's Coastal Management Program incorporates the air quality policies and programs developed for the State by the Department of Environmental Conservation pursuant to the Clean Air Act and State Laws on air quality. The requirements of the Clean Air Act are the minimum air quality control requirements applicable within the coastal area.

To the extent possible, the State Implementation Plan will be consistent with coastal lands and water use policies. Conversely, coastal management guidelines and program decisions with regard to land and water use and any recommendations with regard to specific sites for major new or expanded industrial, energy, transportation, or commercial facilities will reflect an assessment of their compliance with the air quality requirements of the State Implementation Plan.

The Department of Environmental Conservation will allocate substantial resources to develop a regulatory and management program to identify and eliminate toxic discharges into the atmosphere. The State's Coastal Management Program will assist in coordinating major toxic control programming efforts in the coastal regions and in supporting research on the multi-media nature of toxics and their economic and environmental effects on coastal resources.

**POLICY 42                    COASTAL MANAGEMENT POLICIES WILL BE CONSIDERED IF  
THE STATE RECLASSIFIES LAND AREAS PURSUANT TO THE  
PREVENTION OF SIGNIFICANT DETERIORATION  
REGULATIONS OF THE FEDERAL CLEAN AIR ACT.**

### Explanation of Policy

The policies of the State and the Villages' Local Waterfront Revitalization Program concerning proposed land and water uses and the protection and preservation of special management areas will be taken into account prior to any action to change prevention of significant deterioration land classifications in coastal regions or adjacent areas. In addition, the Department of State will provide the Department of Environmental Conservation with recommendations for proposed prevention of significant deterioration land classification designations based upon State and local coastal management programs.

**POLICY 43                    LAND USE OR DEVELOPMENT IN THE COASTAL AREA MUST  
NOT CAUSE THE GENERATION OF SIGNIFICANT AMOUNTS  
OF THE ACID RAIN PRECURSORS: NITRATES AND SULFATES.**

### Explanation of Policy

The New York Coastal Management Program incorporates the State's policies on acid rain. As such, the Coastal Management Program will assist in the State's efforts to control acid rain.

These efforts to control acid rain will enhance the continued viability of coastal fisheries, wildlife, agricultural, scenic and water resources.

**POLICY 44            PRESERVE AND PROTECT TIDAL AND FRESHWATER WETLANDS AND PRESERVE THE BENEFITS DERIVED FROM THESE AREAS.**

**POLICY 44A          PROTECT AND PRESERVE LOCALLY IMPORTANT FRESHWATER WETLANDS NOT UNDER STATE PROTECTION FROM DEVELOPMENT OR ENCROACHMENT.**

**POLICY 44B          THE LOCATION AND CONSTRUCTION OF DOCKS AND PIERS SHALL MINIMIZE DISTURBANCE OF TIDAL WETLANDS AND HABITATS.**

**POLICY 44C          BOAT TRAFFIC IN WATERS ADJACENT TO TIDAL WETLANDS SHALL NOT RESULT IN DISTURBANCE TO OR DESTRUCTION OF WILDLIFE HABITATS.**

**Explanation of Policy**

Tidal wetlands include the following ecological zones: coastal fresh marsh; intertidal marsh; coastal shoals, bars and flats; littoral zone; high marsh or salt meadow; and formerly connected tidal wetlands. These tidal wetland areas are officially delineated on the Department of Environmental Conservation's Tidal Wetlands Inventory Map.

Freshwater wetlands include marshes, swamps, bogs, and flats supporting aquatic and semi-aquatic vegetation and other wetlands so defined in the N. Y. S. Freshwater Wetlands Act and the N. Y. S. Protection of Waters Act.

The benefits derived from the preservation of tidal and freshwater wetlands include, but are not limited to :

- habitat for wildlife and fish, including a substantial portion of the State's commercial fin and shellfish varieties; and contribution to associated aquatic food chains;
- erosion, flood and storm control;
- natural pollution treatment;
- groundwater protection;
- recreational opportunities;
- educational and scientific opportunities; and
- aesthetic open space in many otherwise densely developed areas.

In evaluating development proposals within or adjacent to tidal or freshwater wetlands, the following standards and criteria shall be applied:

- 1) Stormwater runoff shall not be directly discharged into wetlands.
- 2) All wetland vegetation shall be maintained. Dredging and site construction should not disturb tidal wetlands either by direct removal of vegetation or substrate, or by the alteration of adjacent slopes that would undermine the stability of the substrate.
- 3) Subsurface sediments shall be maintained to provide structural support for the soils of the wetlands.
- 4) The elevation of the wetland shall not be altered.
- 5) Pollutants shall not be discharged into wetlands.
- 6) No wetland buffer zone vegetation shall be disturbed by grading, erosion, sedimentation, or direct removal of vegetation. This wetland buffer zone extends a minimum of 100 feet from the upland boundary of a tidal wetland, or within 100 feet from the boundary of a freshwater wetland.
- 7) There shall be no construction within 100 feet of the upland boundary of a freshwater or marine wetland. This includes the introduction of impervious surfaces, roads, utility equipment, etc. An exception is made for a private dock, provided no other opportunity for water access exists on the lot, except through wetlands.
- 8) If bulkheading is required for filled land or for soil stabilization adjacent to a wetland, the bulkhead should be located upland from the wetland above the highest yearly tide level elevation. Bulkheads should not block the surface and subsurface flow of freshwater to the wetland.
- 9) No material shall be deposited onto a wetland.
- 10) No part of a septic system shall be located within one-hundred-fifty (150) feet of a wetland.

(See Policies 7,11,13,14,19,21,33,35,37)

**SECTION IV**

**PROPOSED LAND AND WATER USES  
AND PROPOSED PROJECTS**

## **SECTION IV: PROPOSED LAND AND WATER USES AND PROPOSED PROJECTS**

The coastal management policies established in Section III define the Villages' program for maintaining their rural character and protecting environmental quality. The Land and Water Use Plan shown on Maps 9A and 9B for the coastal area reflects these policies and development goals. Specific legislative and non-legislative government actions necessary to implement the plan are presented in Section V, Techniques for Local Implementation.

### **A. PROPOSED LAND AND WATER USES**

The Villages of Nissequogue and Head-of-the-Harbor have an established use and density pattern which is supported by existing local laws. The Villages will retain the current pattern of primarily large lot residential land use as a means of safeguarding significant natural and man-made resources.

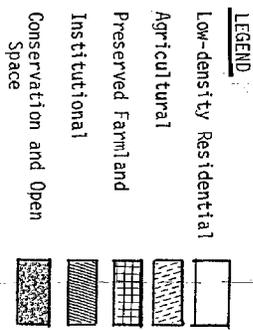
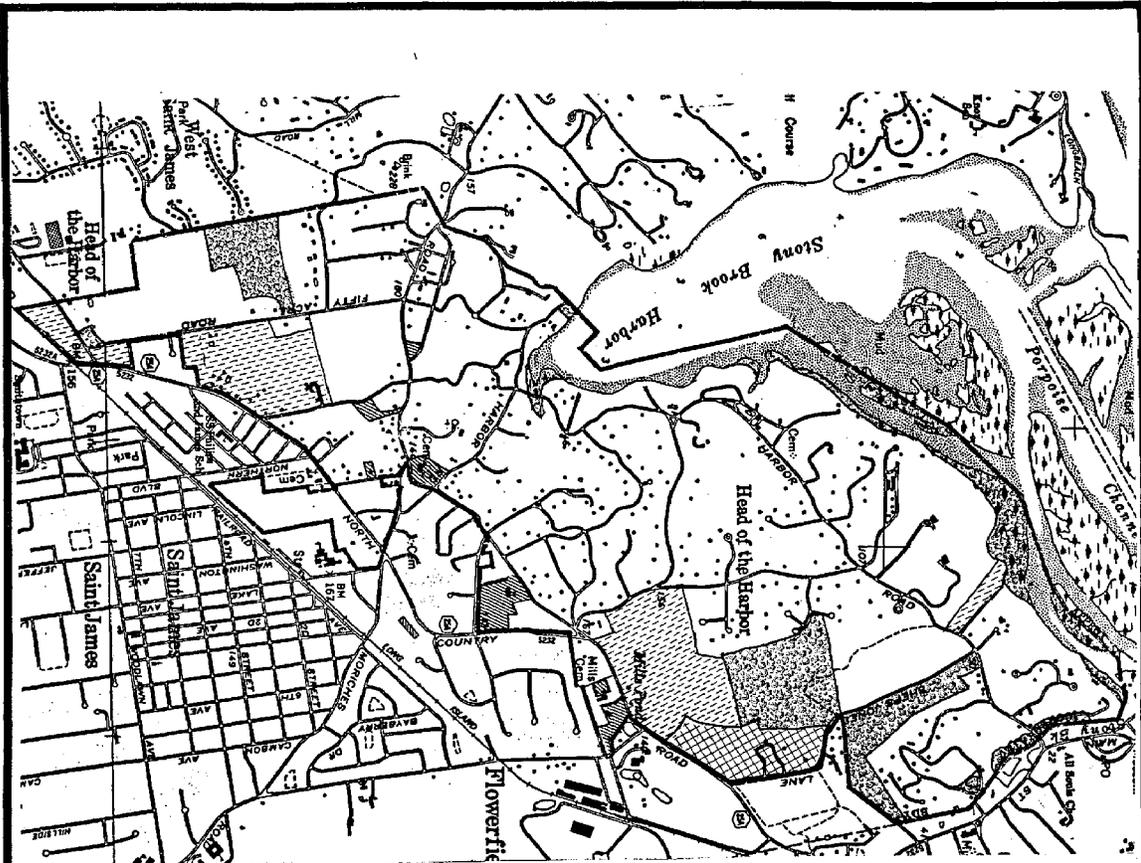
There are three general land use categories existing within the Villages which are reflected in the Proposed Land Use Plan. They are low density residential, recreation and open space preserve, and agriculture.

#### **Low Density Residential**

The Villages are composed principally of low density residential uses. The bulk of the land falls within and allowed density of one unit per two acres, the remainder of the residential land has an allowed density of one unit per one acre. The area of the Villages where a one acre lot size is permitted will be confined to existing areas of such development. In Nissequogue, this includes the residential area immediately to the east of Long Beach Town Park. While it would be desirable to limit development of the Long Beach peninsula to open space and conservation uses because of its sensitive nature, the existing lot and ownership patterns and the density of development make this unfeasible. Consequently, this area will remain in one acre residential uses.

In Head-of-the-Harbor, the area of one acre density is located away from Stony Brook Harbor and the Mill Pond on Route 25A. The higher density in this area is appropriate because it is on a major east-west highway and is near other areas of smaller lot residential and minor commercial development.

Within the residential use areas of the Villages, certain institutional uses, such as churches and schools, and municipal uses are also appropriate if sensitively sited on lots of adequate size to meet the demands of the activity. These uses are necessary support services in the Villages and will continue. There are large estate homes in both Villages which are of scenic and historical interest to the community. These shall be promoted through designation to the National Register and regulation of site design.



SCALE: 1" = 2000'

**MAP 9A**

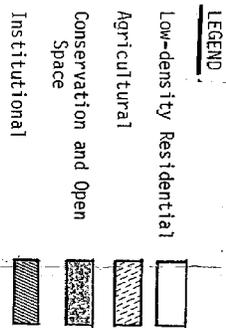
# Proposed Land Use

## Local Waterfront Revitalization Program

### Village of Head-of-the-Harbor

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-82-AA-D-C2068  
Date of Preparation: February 1987



SCALE: 1"=2000'

**MAP 9B**

# Proposed Land Use

## Local Waterfront Revitalization Program

### Village of Nissequogue

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-R2-MA-D-CZ063  
Date of Preparation: February 1987

### Recreation and Open Space Preserve

There are three Town parks in the Villages. Short Beach and Long Beach are in Nissequogue and Cordwood Path Beach is in Head-of-the-Harbor. In addition, there are private recreation facilities in Nissequogue: the Nissequogue Golf Club, and the Smithtown Bay Yacht Club. These facilities are appropriate at their current level of use. The Village of Nissequogue nature preserve on Long Beach, The Town of Smithtown nature preserve on the west end of Short Beach and the Nature Conservancy and Stony Brook Foundation properties in Head-of-the-Harbor and in Nissequogue are held for conservation purposes and will remain in those uses.

### Agriculture

Although Nissequogue and Head-of-the-Harbor are in a highly urbanized Town, they retain approximately 17% of their total land area in active agricultural uses. Farmland gives the Villages a rural nature which is vanishing in other parts of the Town and also contributes to the local economy. Additionally, most farmland is located on prime soils worthy of preservation. A 45 acre parcel is under the Suffolk County Farmland Preservation Program. This valuable parcel will remain in agricultural use. The Villages will promote the retention of the remaining farmland through a combination of tools including the County development rights acquisition program, acquisition by land trusts, sensitive subdivision layout, and anti-harassment programs.

### **B. PROPOSED WATER USE**

The municipal boundary of the Village of Nissequogue extends to the mean high water mark of the Nissequogue River, Smithtown Bay, and Stony Brook Harbor. The Village of Head-of-the-Harbor's municipal boundary extends approximately 500 feet from mean high water into Stony Brook Harbor. The Town of Smithtown's municipal boundary extends over and under the Nissequogue River and the remainder of Stony Brook Harbor. The Villages and the Town of Smithtown have adopted a local law for jointly governing all vessels operating on surface waters. Recreational boating activities are permitted and regulated. In addition, no dredging is permitted within the 500 foot municipal boundary of Head-of-the-Harbor in Stony Brook Harbor. Intermunicipal mariculture programs within Stony Brook Harbor and in such other locations as they are appropriate are encouraged.

### **C. PROPOSED PROJECTS**

The Villages of Nissequogue and Head-of-the-Harbor will undertake and promote the following projects to meet several important program goals. The projects have been carefully selected to be achievable and to strengthen future implementation of the LWRP.

**1. Harbor Preservation and Management Program**

In 1983-84, the Marine Sciences Research Center at SUNY-Stony Brook prepared an analysis of Stony Brook Harbor for the Villages, the Town of Brookhaven and Suffolk County. The analysis resulted in a predictive model of the impacts of various dredging proposals on the health of Stony Brook Harbor. While this model will play a critical role in future decisions on dredging activity in the harbor, comprehensive management of the harbor to achieve a balance among environmental, recreational and economic uses requires additional study.

The Villages propose to undertake a joint management study with the Towns of Brookhaven and Smithtown and Suffolk County. The Marine Sciences Research Center could conduct the study.

The purpose of the study is to develop baseline data on the physical and biological elements and human use activities affecting the continued use of the harbor as a multiple use resource. The elements of the study include: water quality monitoring to determine sources of pollution; an analysis of fish and wildlife use of the harbor; incorporation of MSRC dredging impact studies; a dredge spoil disposal plan; an analysis of current and potential boating use and the capacity of the harbor to absorb this use; an analysis of other less intensive recreational uses of the water and land surrounding the harbor; and an analysis of the economics of various harbor uses and proposals.

The result of the study would be a management plan for the harbor which would provide guidelines and objective tests for judging the impact of land and water uses on the harbor. These guidelines and tests will be appended to the LWRPs of the Villages and the Towns.

The major expenditure connected with a Harbor Management Plan will be funding the initial study; maintenance of the program on a yearly basis would be moderate. It is expected that the municipalities will split the annual cost of the program. Anticipated cost of the study itself is \$50,000. Foundation grants, public grants, and municipal contributions would fund the study.

**2. Review of Suffolk County Health Department Regulations**

In order to render land as usable as the limits of safety allow, the cooperation of the Suffolk County Department of Health will be sought for the purpose of reviewing County regulations for the siting and construction of sewage disposal systems. The Villages will negotiate with the Department of Health. If necessary, it would be appropriate to seek cooperation at the level of the County legislature.

A program of dye-testing of cesspools with the aim of tracing possible active or potential sources of pollution of the harbor waters, or of ground waters, is part of the Harbor Preservation project discussed above. It would preferably be conducted in collaboration with the Department of Health. An on-going cooperative program will be developed to test all cesspools in a 5-year cycle.

In addition to dye testing and monitoring, the Villages will work with the County Health Department to determine if alternatives to cesspools might be more effective near the harbor and the river. The results of the Harbor Management Plan (#1 above) will play an important role in these decisions.

The cost of this project is expected to be minimal.

3. **Harbor and River Patrol System**

Currently, there is no coordinated program for patrolling the Nissequogue River and Stony Brook Harbor. Existing boating, swimming, shellfishing and discharge regulations often go unenforced because the Town Bay Constables cannot effectively monitor both the river and the harbor. The feasibility of a joint Town and Villages patrol system will be explored. The analysis will cover manpower needs, equipment requirements, time of operation, municipal responsibilities, financing and the like. The cost of the study itself would be minimal. If the project were found feasible, equipment, manpower supervision and operating costs would likely be \$75,000 for the first year. Subsequent years should be less expensive since the major costs would be the purchase of a boat.

4. **Public Participation**

No matter how well-thought-out and necessary measures for conservation and protection of the local environment may be, the interest and cooperation of the residents are needed to make any plan or program effective. Such participation will be forthcoming to the degree that the need for it is understood.

Among the available techniques for advancing the program is that of public education about coastal concerns. The following public participation projects are proposed:

- a) A newsletter/bulletin circulated to all residents on a regular schedule, including agendas for all Village Board and (insofar as possible) committee meetings. (Proposed village actions should be set forth, and statements concerning issues and problems as well; ideally it would also allow discussion or expression of opinion concerning such issues).

- b) An information brochure to be provided to all new residents, providing a list of officials, a schedule of regular meetings, and whatever other information might be helpful in encouraging the participation of residents in Village concerns. Such information might be included in tax bills.
- c) An information center in the Village Clerk's office which provides, at a reasonable price, publications: for example, the General Laws, Supplements to the Laws, Planning Board and Architectural Board regulations, local historical information, LWRP policies, County Cooperative Extension booklets, County Planning documents, etc.
- d) A pamphlet concerning care of land: lawn and garden fertilizers and chemicals to use and to avoid, types of landscaping most suitable to the locality and least threatening to the environment, or to the quality of ground water; suggested varieties of planting, etc.

**5. Land Acquisition**

Acquisition of environmentally sensitive parcels in the Villages by local government or by not-for-profit land trusts will be encouraged and promoted. Environmentally sensitive parcels include those that pose severe development problems because they contain wetlands, significant habitats, unstable soils, etc. Parcels will be identified and prioritized. The Villages would explore methods of acquisition that would reflect the land's value as preserves rather than as building lots.

**6. Development of Acquisition/Retention Scenarios for Agricultural Land**

The Villages will develop a listing of funding sources and agencies interested in acquisition of agricultural land and open space lands. This listing will be tailored to the needs of the agricultural landowners in the Villages and to the characteristics of the land which would be considered for preservation. This information will then be available when needed, at the time of a subdivision proposal or sales offer, to allow the Villages to work with the landowner to preserve all or a part of the agricultural parcel while allowing the landowner a return on his land.

**7. Reconstruction of Harbor Road Culvert**

A culvert was constructed at the southern end of Stony Brook Harbor on Harbor Road to replace a bridge. The culvert is now deteriorating and does not provide for adequate exchange of waters between the harbor and adjacent wetlands. The culvert should preferably be replaced with a bridge. If this is not feasible, the culvert should be resized and replaced.

**SECTION V**

**TECHNIQUES FOR IMPLEMENTING THE  
LOCAL WATERFRONT REVITALIZATION PROGRAM**

## **SECTION V: TECHNIQUES FOR IMPLEMENTING THE LOCAL WATERFRONT REVITALIZATION PROGRAM**

The Villages of Head-of-the-Harbor and Nissequogue have traditionally been low density residential communities. This pattern is reflected in the zoning regulations and other local laws designed to maintain the character and to protect the environmental quality of each Village. The coastal management policies which guide land use and water use decisions in the Villages focus on existing local laws dealing with specific coastal development issues.

This section describes the techniques and procedures which will be used by the Villages to implement their Local Waterfront Revitalization Program.

### **A. EXISTING LOCAL LAWS AND REGULATIONS**

#### **1. Village of Head-of-the-Harbor**

##### **a) Zoning Law (Local Law #1 of 1974)**

The Village adopted its zoning law in 1974 to conserve open space and ecological features, to control densities to protect public health in the absence of infrastructure, and to avoid congestion, among other purposes. The Village's zoning law has been amended seven times since 1974 to clarify certain provisions. The zoning law provides for three residential districts (A, A-1 and B) and a floating undeveloped park land district (U). The residential districts allow single family homes, municipal buildings and open space lands as permitted uses. Churches, non-profit schools, agriculture and guest houses are special permit uses. A range of customary accessory uses are also permitted with certain conditions. Minimum lot size in the A and A-1 districts is two acres and in the B district, one acre. There are special setback provisions of 100 feet from mean high water or 50 feet from the top edge of a bluff on Stony Brook Harbor. Standards for the approval of a special permit provide protection for neighboring land uses and also for the integrity of the rural character of the Village.

The Village has excluded environmentally sensitive lands (marshland, land underwater, land below mean high water or land below the edge of a bluff on Stony Brook Harbor) from the calculation of minimum lot size or setback requirements. It further prohibits dredging, filling, draining or excavating environmentally sensitive lands. The Planning Board is authorized to modify the area regulations, (Section 413 of the zoning ordinance), to protect environmentally sensitive areas during subdivision review.

The zoning law is a significant tool for implementing the Village's LWRP. The zoning law, together with the amendments outlined later in this section, implements Policies 2, 19, and 19A as they relate to the maintenance of public open space, recreational and nature preserve lands. Through requirements for the exclusion of lands underwater from the calculation of minimum lot size or setback requirements, and provisions for waiver of the area regulations to protect environmentally sensitive lands, the zoning law implements Policies 5, 7, 7A, 11, 11A, 12, 13B, 14 and 17. Policies 7, 11, 12, 14 and 17 are further implemented by setbacks established from Stony Brook Harbor, Mill Creek and the bluffs. Since the zoning law prohibits commercial and industrial uses, water quality is protected from pollution by storage of solid and hazardous wastes and general runoff from these uses (Policies 7, 8, 31, 36 and 38). It supports Policies 14, 17 and 25 by prohibiting removal, destruction or alteration of trees and other vegetation. Finally, the zoning law provides for the continuation of agricultural pursuits as a special permit use. (See Map 4A)

b) Subdivision Regulations

The Village's subdivision regulations provide for the orderly partitioning of large parcels of land into smaller building lots. The subdivision regulations include procedures for submitting plans and standards for street layout, lot configuration, dedication of open land, consideration of natural features, drainage, etc.

The subdivision regulations, including the amendments as proposed, implement Policy 22 with regard to providing open space easements and access to recreational land. The regulations support Policies 11, 12, 14, 17, 25, 33, 37 and 38 by protecting natural drainageways, requiring that lot layout reduces the need for alteration of topography and providing for retention of vegetative cover.

c) Exterior Design and Appearance of Buildings

Local Law #1 of 1965 establishes a Board of Architectural Review to review all applications for building permits in the Village. The purpose of the review is to ensure that all structures are compatible with surrounding properties and maintain the rural character of the Village and the natural beauty of its environs. The Board of Architectural Review examines each application to determine if the structure is uniform, markedly similar or incongruous with neighboring buildings or so incompatible with topographical features that it detracts from the overall character of the Village and the immediate surroundings. General

consideration is given to design and type of construction, including mass, height, line, color and texture of the materials to be used in relation to their surroundings; siting of structures; extent of natural screening; effect on vistas; historic features; and topographical and vegetational characteristics of the land.

This local law, together with its proposed amendments, is important in the implementation of Policies 23 and 25. Through review of development proposals, the Board of Architectural Review will ensure that construction does not detract from vistas or the surrounding neighborhood. Historic structures will be protected from alteration, unsympathetic new construction and demolition.

d) Vehicular Access to Beaches

Local Law #1 of 1972 provides for the regulation of vehicular traffic on all Village streets and public places. Article V, section 4, prohibits use of motorized vehicles on any beach without prior approval of the Village police department.

This local law is important in the implementation of Policies 12, 14 and 17 by preventing destruction of beaches and dunes and by allowing their continuation as natural protective features.

e) Building Administrative Law

This local law (Local Law #1 of 1976) establishes the Office of Building Inspector and provides for a system of ensuring that all structures meet standards from zoning and other local laws. The local law requires permits for construction as well as demolition. The local law also provides for repair, rehabilitation or demolition of unsafe structures.

Because it promotes coordination with and enforcement of the zoning ordinance and the architectural review law, this local law implements Policies 6, 2, 3, 7, 11, 11A, 12, 13B, 14, 17, 19, 19A, 23 and 25.

f) Flood Damage Prevention Law

This local law was enacted in 1978 to regulate construction within flood hazard areas defined by the Federal Emergency Management Agency. Projects within the flood hazard area are reviewed to ensure that hazards from flooding are minimized through appropriate construction techniques and materials, siting, protection and maintenance of drainage areas and

analysis of the impact of the proposal on the flood carrying capacity of the area.

The Flood Damage Protection Law implements Policy 11 by providing standards for development within flood hazard areas to minimize and mitigate flood damage.

g) Environmental Quality Review Law

The Village has enacted a Local Environmental Quality Review Law. This local law establishes procedures to review actions in the Village which may have a significant effect on the environment. The Village has modified the State Type I list to include thresholds more appropriate to the size of The Village. The Village has also included in its Type I list any action occurring in designated critical environmental areas, including tidal wetlands; freshwater wetlands; floodplains; wild, scenic and recreational rivers; farmlands; steep slope areas; watershed areas; Route 25A Historic District; and beach, bluff and dune areas. Clear-cutting or clearing of more than 3/4 acre is also a Type I action.

This local law implements and enforces many of the policies in the LWRP by providing for a detailed environmental review and the development of mitigation measures for development activities. Most particularly this law affects: protection of fish and wildlife habitats, reduction of flooding and erosion potentials, protection of scenic and historic resources, protection of water quality, placement of erosion protection structures, protection of agricultural lands, dredging activity, tidelands and natural protective features. (Policies 2, 5, 7, 8, 11, 12, 13, 14, 15, 17, 23, 25, 26, 33 and 37)

h) Local Law for Jointly Governing the Waterways

This local law regulates vessels in the Villages of Nissequogue and Head-of-the-Harbor and in the Town of Smithtown. It applies to all surface waters within the jurisdictional limits of the Villages and the Town. In Nissequogue, the law regulates mooring to prevent inter-ference with navigation or other boats. It also provides for the removal of derelict boats. Controls are placed on the length of time that boat can use a municipal dock. Operation of boats within 300 feet of any public or private recreation area is prohibited, and speeds must be kept below 5 mph. It is unlawful to operate a boat so seabirds or other boat passengers are frightened. Dumping of oil, sewage, garbage or other waste is prohibited.

This local law establishes uniform procedures for docking, mooring and operation of pleasure boats within the Nissequogue River, Smithtown Bay and Stony Brook Harbor. Water-dependent recreation Policies 19 and 21 are implemented by this local law because the operational rules it establishes regulate the safe use of the waters. The local law also implements Policy 7 because it prohibits disruption of waterfowl in the significant habitat areas of the Nissequogue River and Stony Brook Harbor. Low boat speeds set by this local law are important not only for maintaining habitat but also for reducing erosion, sedimentation and siltation from boat wakes. (Policies 17 and 44)

i) Animal Control Law

The animal control law (Local Law #1 of 1986) repeals earlier Village ordinances relating to the control of dogs. The new local law requires that dogs be confined to the owner's property unless leashed. In addition, fifteen minutes of barking or howling constitutes a disturbance of the peace. Fines are levied for violations.

2. Village of Nissequogue

a) Zoning Ordinance

In 1969, the Village adopted a comprehensive amendment to its zoning ordinance. The ordinance sets forth the Village's development policies which include conservation of natural beauty by encouraging low-density development with permanent preservation of natural features, by establishing a density pattern that will not require public water supply and sewers, and by maintaining the existing residential environment. The ordinance established two residential districts. The bulk of the Village is zoned for 2 acre lots. On the Long Beach peninsula, one acre lots are permitted. The ordinance provides that no portion of the minimum lot size may be achieved by including land underwater, land underwater at mean high tide or land subject to periodic flooding, except that land in a stream less than five feet wide or in a pond will not be considered underwater if it is less than 5% of the lot area at MHW. A 1985 amendment provides that lands which were formerly underwater but which have been filled shall be deemed land underwater and a building permit will not be issued. Permitted uses are single family houses, municipal uses and open space uses. Under certain controls, churches, farms and guest houses are allowed by special permit. A procedure is established to ensure that special permit uses do not adversely affect their environs. In 1982, the zoning ordinance was amended to permit equestrian centers on

a minimum of 25 acres and included standards for the operation of such centers.

The Village Zoning Ordinance is a cornerstone in the Village's ability to guide development and to implement its LWRP. The ordinance promotes the maintenance of public open space, recreational land and nature preserves by making them permitted uses. (Policies 2,7, and 19)

By controlling densities so development can be accommodated safely on individual wells and septic systems, the zoning ordinance supports Policies 5 (adequacy of protection public facilities), 7 and 38 (protection of water quality which affects fish and wildlife habitats and surface and groundwater resources). The zoning ordinance also prohibits placement of bulk oil storage facilities, storage of hazardous materials or other commercial/industrial land uses which protects water quality and implements Policies 7,8,31,36 and 38. Agriculture and equestrian centers are supported in the Village as special permitted uses (Policy 26). The zoning ordinance generally supports Policy 25 by establishing a low density environment with large setbacks to maintain the rural character of the Village. (See Map 4B)

b) Flood Damage Prevention

In 1983, the Village enacted a local law to control development in areas affected by flooding and to minimize the effects of flooding. The local law applies to all areas of special flood hazard identified by the Federal Emergency Management Agency on the Flood Insurance Rate Maps. A development permit is required before any activity which affects the land occurs in a flood area. The law requires that flood hazards be reduced by anchoring of construction to prevent movement, that construction methods and materials minimize flood hazard, that on-site sewage systems be constructed so they do not contaminate waterbodies during a flood, and that subdivision proposals have adequate drainage to reduce flood hazard. Within coastal high hazard areas, structures must be located landward of the mean high tide. Buildings must be elevated and designed so the flow of flood water is not impeded. Fill may not be used for structural support. Sand dunes cannot be altered.

This local law directly implements Policies 11, 14, and 17 relating to minimizing flood damage. The law also prevents alteration of dunes, a natural protective feature, thereby implementing Policy 12.

c) Regulation of Exterior Design and Appearance of Structures

The Village has enacted a local law to establish a Board of Architectural Review which reviews all building permits in the Village to ensure that structures do not detract from the rural character of the Village or from historic topographic or vegetative features. Proposals are examined in terms of their mass, line, height, color, texture and extent of natural screening.

The design review standards for development set forth in this local law implement Policies 23 and 25. The review will ensure that important vistas and the integrity of the natural and built environment are protected.

d) Local Law for Jointly Governing the Waterways

This local law regulates vessels in the Villages of Nissequogue and Head-of-the-Harbor and in the Town of Smithtown. It applies to all surface waters within the jurisdictional limits of the Villages and the Town. In Nissequogue, the law regulates mooring to prevent interference with navigation or other boats. It also provides for the removal of derelict boats. Controls are placed on the length of time that boat can use a municipal dock. Operation of boats within 300 feet of any public or private beach is prohibited, and speeds must be kept below 5 mph in Stony Brook Harbor and the Nissequogue River. It is unlawful to operate a boat so seabirds or other boat passengers are frightened. Dumping of oil, sewage, garbage or other waste is prohibited.

This local law establishes uniform procedures for docking, mooring and operation of pleasure boats within the Nissequogue River, Smithtown Bay and Stony Brook Harbor. Water-dependent recreation Policies 19 and 21 are implemented by this local law because the operational rules it establishes regulate the safe use of the waters. The local law also implements Policy 7 because it prohibits disruption of waterfowl in the significant habitat areas of the Nissequogue River and Stony Brook Harbor. Lower boat speeds set by this local law are important not only for maintaining habitat but also for reducing erosion, sedimentation and siltation from boat wakes. (Policies 17 and 44)

The Village Board passed a resolution on April 28, 1971 which stated that there was no delegation of the Village's regulatory jurisdiction to the Town of Smithtown in derogation of Town Law, Section 130(17).

e) Trees

The Village has enacted a local law to protect bluffs, shorelines and barrier beaches against erosion and to maintain watercourses and drainage ways within the Village. The law provides that no activity will lead to the eventual destruction of any tree or vegetation within 100 feet of a ridge line of a bluff. All land-disturbing activity within 100 feet of a bluff or the shoreline of Stony Brook Harbor requires an EIS analyzing the impact of the proposal upon the environment or upon erosion potentials. Removal or destruction of trees totalling 25% or more of the growth on a parcel or within 25 feet of a boundary line requires a permit and a showing that removal will not intensify erosion or affect natural stream courses. Commercial timber harvesting is prohibited.

This local law implements policies which are intended to reduce threats to natural protective features and mitigate erosion problems (Policies 12, 14, 17) by prohibiting activities which would undermine bluffs or unwisely eliminate vegetation which holds soils in place. This local law also implements scenic protection goals (Policy 25) by retaining vegetation on bluff ridges and limiting removal of vegetation on parcels.

f) Environmental Quality Review Law

In 1985, the Village passed an Environmental Quality Review Law to provide for local implementation of the State Environmental Quality Review Act (NYSECL, Article 8). The SEQRA Type I list was modified to better serve the needs of the Village. The Type I list includes any action within critical areas defined as tidal wetlands; freshwater wetlands; floodplains; wild, scenic and recreational river; farmland; steep slopes; watershed; beaches; bluffs; and dunes. Actions within historic and prehistoric sites or districts are also considered Type I actions.

This local law, by institutionalizing SEQRA on a local level and by expanding the list of activities for Type I actions, strengthens the Village's ability to require mitigation in sensitive areas. For this reason, this local law supports all policies included in the LWRP.

g) Subdivision Regulations

The Village's subdivision regulations establish standards to ensure new building lots are suited for development and that their arrangement promotes efficient use of land. Adequacy of access, flood reduction, and safe waste disposal are also considered. The regulations provide for control of stormwater drainage by prohibiting approval of a plot until the

Village Engineer is satisfied that the subdivision will not adversely impact downstream development during a fifty year storm. The regulations protect the rural character of the Village by maintaining existing natural features, topography and vegetation, and by allowing the Planning Board to require the planting of indigenous trees in a right-of-way. Easements to facilitate public access to recreational space and for drainage are also permitted.

The subdivision regulations are important in the implementation of Policies 11, 14, 17, 33, 37 as they relate to the control of stormwater runoff and erosion mitigation. The regulations also implement the scenic policy (25) by safeguarding existing vegetation and topographic features and also by promoting use of indigenous trees in public rights-of-way. Finally, public access Policies 19, 20 and 22 are implemented through the ability to obtain easements to public lands during subdivision review.

h) Satellite Antennas

The Village controls the use and placement of satellite dish antennas to protect the visual character of its roads. Only one dish antenna per household is permitted. Its visual impact is minimized by locating it in the rear yard with deep setbacks from property lines and by requiring substantial vegetative screening. The antenna cannot be higher than thirteen feet above grade.

This local law implements Policies 23 and 25 by preventing the visual intrusion of satellite dishes which would detract from historic sites and scenic areas in the Village.

i) Exterior Lights

Exterior lights are controlled to prevent their operation as a nuisance. The lights cannot shine on another property, must be shut off by 11 p.m., and cannot be flashing. Exceptions are made for lights used as part of seasonal holidays and for special events which have been given a permit by the Board of Trustees.

This local law implements the scenic policy (25) by preventing use of lighting which would detract from the rural character of the Village.

j) Regulation of Vehicles

This local law regulates all aspects of motor vehicle operation within the Village. In addition to speed and parking regulations, the law prohibits

use of a motorized vehicle on any beach within the Village without written permission of the police department. The law also prohibits the deposition of waste material including mud, dirt, silt, sand, gravel or other soil on Village roads or public places.

This local law implements Policy 12 by controlling vehicular access to beach and dune areas. It further implements Policy 7 by protecting habitat areas on beaches and dunes from disruption or destruction. This law implements Policies 7, 14, 17 and 37 by prohibiting activities which would increase erosion of soils and other materials into public waters.

k) Dog Control

This local law prohibits anyone from allowing his dog to defecate on a public area. Fines are provided to ensure compliance.

By eliminating dog wastes from public roads and other areas, this local law reduces the possibility of water quality degradation when stormwater carries road debris into the river or harbor. This implements Policies 7, 9, 10, 37, 38 and 44.

**B. LOCAL LAWS AND REGULATIONS ADOPTED TO IMPLEMENT THE LWRP**

During preparation of the LWRP, the Villages analyzed the array of existing local laws to determine whether the procedures and standards in place were sufficient to implement the LWRP. The following is a description of proposed or revised local laws and regulations which were revised or adopted to implement the LWRP:

1. Revision of the respective Village Environmental Quality Review Laws to include provisions for consistency of proposed actions with the LWRP policies and purposes.

The Village Environmental Quality Review Law for each Village has been amended to set up a review procedure to examine the consistency of proposed actions with the policies and purposes of the LWRP. Applicants are required to submit a coastal assessment form in addition to an environmental assessment form for proposed actions within the Village.

In addition, the EQRL has been amended to reflect appropriate procedures for lead agency decision-making.

2. **Creation of a Joint Village Coastal Management Commission.**

In order to ensure consistency of proposed actions with the LWRP and to manage other aspects of the implementation of the LWRP, the Village Boards of Trustees have established a Joint Village Coastal Management Commission. The Commission is responsible for reviewing and recommending approval, approval with modifications or denial of applications for activities within the Village's coastal areas; and for making LWRP consistency recommendations and determinations.

3. **Amendments to the respective zoning laws of each Village to address specific development concerns. (See Maps 10A and 10B).**

The zoning laws of both Villages have been strengthened to allow greater consideration of environmental, scenic and recreational concerns during the siting and development of projects.

Zoning law revisions in both Villages include:

- a) application of site plan review procedures to non-residential uses;
- b) establishment of standards for the construction of docks in Head-of-the-Harbor and shoreline erosion structures in both Villages to ensure that their location and construction protects environmental and scenic resources;
- c) setting a maximum square footage for the ground floor of structures, and providing for a sliding scale of lot size increase for increased lot coverage to promote scenic and rural qualities in the Village;
- d) establishing standards for access to and development of passive recreation uses;
- e) setting standards to control the location of septic systems and cesspools to reduce the potential for groundwater and surface water pollution;
- f) definition of wetlands protection districts and incorporation of performance standards for development adjacent to wetlands;
- g) within the Village of Nissequogue, establishment of a bluff management overlay district to control the placement of structures and the development of land adjacent to a bluff;



LEGEND

- A Residential (2A)
- A-1 Residential (2A -- less restrictive setbacks)
- B Residential (1A)



SCALE: 1" = 2000'

**MAP 10A**

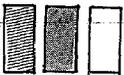
**Proposed Zoning  
Local Waterfront Revitalization Program  
Village of Head-of-the-Harbor**

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-82-AA-D-C2068  
Date of Preparation: February 1987



- LEGEND
- R2 Residential (2A)
  - R1 Residential (1A)
  - Bluff Overlay



SCALE: 1"=2000'

**MAP 10B**

# Proposed Zoning

## Local Waterfront Revitalization Program

### Village of Nissequogue

This map was prepared for the New York State Department of State Coastal Management Program with financial assistance from the Office of Ocean and Atmospheric Administration, provided under the Coastal Zone Management Act of 1972, as amended.

Federal Grant Number: NA-82-AA-D-CZ068  
Date of Preparation: February 1987

- h) within both Villages, increasing the setback from the face of a bluff on Stony Brook Harbor and incorporating performance standards for development of land adjacent to bluffs;
- i) within the Village of Nissequogue, introduction of development standards and pumpout requirements for existing non-conforming marinas.

4. **Amendments to the respective subdivision regulations of each Village include the following:**

- a) strengthening and clarifying the relationship between proposed lot configuration and retention of natural topography, drainage ways, and vegetation;
- b) providing for incorporation of a habitat management plan into subdivision proposals involving parcels of ten or more acres or at the discretion of the planning boards for smaller parcels;
- c) providing for retention of trees existing on the site to the greatest extent practicable and requiring planting to enhance the wooded, rural characteristics of the Village roads;
- d) consideration of septic system and cesspool location contained in the zoning laws of each Village to lot configuration.

5. **Enactment of Beach Use Regulations within both Villages.**

Relying upon jurisdictional authority and Section 45-b of the Navigation Law, the Villages have enacted local laws governing the use of beaches, particularly with regard to maintaining protective dune structures, natural vegetation, habitat areas and prohibiting alteration of grade or placement of structures.

6. **Enactment of an Erosion, Sedimentation and Grading Control Ordinance in both Villages.**

An umbrella regulation has been adopted in both Villages to address the wide range of circumstances in which land development and use activities can adversely impact water quality in the Nissequogue River and in Stony Brook Harbor. Land clearing, alteration of topography, alteration of natural drainageways, disturbance of severe slopes or unstable soils and similar concerns have been addressed through development standards.

**7. Enactment of Right-to-Farm Law in both Villages.**

In order to protect existing agricultural businesses and to promote retention of active agriculture and prime soils in both Villages, right-to-farm laws are proposed. The laws would declare that existing farms operating according to generally accepted agricultural practices are not considered nuisances, unless operated in a negligent manner.

**8. Enactment of local laws to regulate the use of firearms within both Villages.**

Due to the enclosed and developed nature of the Villages and the proximity of public recreational land and water uses, the discharge of firearms is regulated to promote public safety.

**9. Amendment to local laws regulating exterior design and appearance of buildings within both Villages.**

Both Villages currently have Architectural Boards of Review which examine all applications for building permits. The Boards evaluate the proposal's impact on the character of the surrounding areas. The Boards have the authority to deny permits and to recommend modifications. The laws need to be strengthened to specifically protect archeological and historic resources. Amendments to the respective local laws will be made to incorporate standards from the Secretary of the Interior's Standards for Rehabilitation. Procedures for demolition of historic structures, providing for a showing of economic hardship, will also be included. Archeological resources are protected by requiring notification of the NYS Office of Parks, Recreation and Historic Preservation when any land disturbance is proposed in areas identified as archaeologically sensitive.

**10. Submission of local laws regulating the operation of vessels within 1500 feet of the mean high water line of the Villages to the Commissioner of Parks, Recreation and Historic Preservation.**

This local law includes regulations governing anchorage, mooring, and the general operation of boats in the Nissequogue River, Smittown Bay and Stony Brook Harbor. In addition, the Villages will seek special legislation permitting them to regulate the construction of docks in adjacent waters. Dock regulations will govern location, design and installation of docks.

**C. OTHER PUBLIC AND PRIVATE ACTIONS NECESSARY TO IMPLEMENT THE LWRP**

In addition to the responsibility of each Village to enforce and amend, as necessary, its local laws supporting the LWRP, other actions by public and private sectors are required for full implementation of the LWRP.

**1. Local Government Actions**

a) Internal Coordination

The Villages have established a Joint Village Coastal Management Commission to serve as lead agency for the implementation of the LWRP. The Commission is formulating its operating procedures, application forms, etc., to carry out its responsibilities most effectively.

b) Formulation of Navigation Maintenance Plans for Stony Brook Harbor

The Villages are coordinating with the Towns of Brookhaven and Smithtown, Suffolk County and the NYS Department of State's Coastal Management Program to develop comprehensive plans to guide decisions on maintaining navigation channels in Stony Brook Harbor. These plans will incorporate the findings of studies completed by the Marine Sciences Research Center at SUNY-Stonybrook.

c) Harbor Management Study

The Villages are undertaking a water quality monitoring study and program in Stony Brook Harbor utilizing the services of the Marine Sciences Center of SUNY - Stony Brook. This study will identify pollution from land and water sources which is causing water quality in the harbor to decline. Remedial steps (legislative, structural, etc.) will be taken to reduce or eliminate the pollution once the sources have been adequately identified. This study is the first step in a larger effort to identify the carrying capacity of Stony Brook Harbor to ensure its balanced use for environmental, recreational and scenic purposes, and to develop a detailed harbor management plan for the harbor.

d) Use of Cesspools and Septic Systems in Areas of High Water Table

Under current Suffolk County Health Department regulations, alternative septic systems are not approved for use in the County. The Villages will work closely with the County Health Department to develop a mutually

satisfactory alternative to cesspools and traditional septic systems in areas where the depth to seasonal high water table is less than three feet.

e) Land Acquisitions/Farmland Retention

The Village Boards and the Joint Village Coastal Management Commission will establish contacts with private land trusts, such as the Nature Conservancy, to purchase easements or fee title to lots designated environmentally sensitive in the Villages of which are being threatened by development and which would contribute to the destruction of wetland habitat and create water quality problems.

The Commission will also study the location of farm parcels, their soils characteristics, abutting land uses and other salient factors. This information, together with information on preservation options, will be used to retain as much productive agricultural land as possible in the Villages.

f) Harbor and River Protection Handbook

The Joint Village Coastal Management Commission will work with the Village Boards and interested citizens to prepare handbooks for Village residents on how to be a responsible waterfront landowner. The handbooks will contain information on ways of reducing fertilizer use, using native vegetation, erosion control and other environmentally sound measures to protect the river and the harbor.

2. General Education in and Support of the LWRP

To a large degree, the success of the LWRP in achieving its purposes will depend upon the interest and support of the Village residents. Residents must be willing to learn about ways of protecting natural and man-made resources and to support the Village governments in pursuing those goals.

**D. MANAGEMENT STRUCTURE FOR IMPLEMENTING THE LWRP**

The Villages undertook joint preparation of a LWRP in recognition of their shared responsibility for the long-term health of Stony Brook Harbor, in addition to individual concerns about the Nissequogue River, Smithtown Bay, the Mill Pond and Stony Brook Creek. Design of an effective management structure for the implementation of this Program must take into account its bi-municipal character, as well as the fact that no existing municipal or intermunicipal body in this area has overall responsibility for the wide range of activities covered by the policies in Section III and the actions in Sections IV and V.

Each of the Villages act independently of the other in terms of direct governmental activity (i.e. road reconstruction and maintenance) and land use decisions (e.g. Boards of Architectural Review, zoning and subdivision approvals). Agencies such as the County Health Department and the Suffolk County Planning Board also affect land use and water quality in the Villages through issuance of septic system permits and zoning and subdivision reviews under the General Municipal Law. All of these bodies work in cooperation with local non-governmental groups and with local schools, as required.

The working relationship cultivated by the Villages during their preparation of the joint LWRP has reinforced the benefits of a coordinated implementation structure for an approved LWRP.

**1. Lead Agency and Responsible Official**

To serve as lead agency, the municipal governments of the Villages of Nissequogue and Head-of-Harbor have jointly established a Joint Village Coastal Management Commission of 12 members. The Chairman of the Commission is designated as the local official responsible for overall management and coordination of the LWRP. With the establishment of the Joint Village Coastal Management Commission, the Joint Committee on Coastal Zone Management, a planning body which prepared the LWRP, was dissolved.

**2. Joint Village Coastal Management Commission**

The Commission is constituted as follows:

- a) Appointment. Six members are appointed by the Village of Head-of-the-Harbor and six by the Village of Nissequogue. Members are appointed for a term of three years and are eligible for reappointment; except that at the outset four members are appointed for a term of three years, four for a term of two years, and four for a term of one year.
- b) Quorum. Six (6) members constitute a quorum provided it consists of three (3) members from each Village.

Each member serving an appointment by a Village must be a resident of that Village. Members chosen are selected for their demonstrated knowledge, ability, and readiness to serve the Commission in the functions described below, and with due regard to maintaining among the membership a range of special aptitudes and expertise relevant to the Commission's work.

- c) Functions and powers. The Commission's basic task is the implementation of the LWRP, its policies and projects, including physical,

legislative, regulatory, administrative, and other actions included in the Program. In pursuance of this task the Commission:

- i) Reviews all proposed actions by, or subject to the approval of, any agency of either Village and advises as to the consistency or inconsistency of the action with the LWRP. The Commission may recommend modifications to the proposal which would make it consistent with the LWRP.
- ii) Monitors and reviews in a timely fashion the planned actions of State and Federal agencies within the Coastal Zone in order to assure consistency of such actions with the LWRP, and recommends remedial action where necessary.
- iii) Advises the municipal governments on implementation priorities, work assignments, timetables, and budgetary requirements of the Program.
- iv) Consults with the appropriate departments and officials of the two municipalities concerning the matters in subparagraph (1), obtaining reports from them as necessary to assure implementation of the Program and consistency of local actions with it.
- v) Maintains liaison with related municipal bodies including, but not limited to, the Planning and Zoning Boards and concerned nongovernmental bodies, in order to further the implementation of the LWRP.
- vi) Subject to the approval of the municipal governments, makes application for funding from State, Federal, or other sources to finance projects which implement or further the policies, goals and standards of the LWRP.
- vii) Develops and maintains liaison with neighboring municipalities, and with State and County agencies concerned, with a view to strengthening and developing cooperation in, and common management of, shared drainage basins for flood and pollution control and other purposes.
- viii) Prepares an annual report to the municipal governments on progress achieved and problems encountered during the year, and recommends such actions as the Commission considers necessary for the further implementation of the LWRP.

- ix) Makes or prepares such reports and communications concerning the LWRP to the Department of State and other agencies of the State of New York, by or on behalf of the municipal governments, as may be appropriate or required.
- x) Performs such other functions regarding the coastal zone as may from time to time be required or assigned by the Village Boards.

d) Other Provisions

- i) Members of the Commission serve without compensation. They are entitled to reimbursement for necessary expenditures in the performance of their work, subject to budgetary limitations.
- ii) The Commission may engage such professional and clerical help and purchase such supplies and services as are necessary for its work, subject to prior budgetary approval by the two municipalities as the latter may direct.
- iii) The Commission meets at the call of the Chairman, however, the Commission shall not meet less than six (6) times per year. Its meetings are open to the public. It will keep and distribute minutes of its proceedings. A majority of its members constitute a quorum.

e) Limitation

Notwithstanding any other provision of this Program, no powers, duties, or functions are conferred by it on the Joint Village Coastal Management Commission other than those set forth in paragraphs (c) and (d) above; and no provision of this Program shall be construed as altering the powers, duties, and functions of the existing municipal planning and zoning boards or commissions of the Villages of Head-of-the-Harbor and Nissequogue.

### **3. Consistency Procedures for Local Agency Actions**

Each proposed action\* directly undertaken, funded, permitted or otherwise approved by a Village agency for a given public or private project, use or activity within the Local Waterfront Revitalization Area (LWRA) of the Villages of Head-of-the-Harbor and Nissequogue shall be reviewed for compliance with the LWRP pursuant to appropriate provisions of the laws of each Village. The following procedures shall be integrated into the Villages' procedures for compliance with SEQR.

The specific compliance procedures are as follows:

- a) Whenever an agency proposes a direct action or receives an application for review and approval, it shall prepare or require the applicant to prepare an Environmental Assessment Form (EAF) and a Coastal Assessment Form (CAF).
- b) A copy of the EAF and the CAF, together with copies of the application and any supporting material shall be forwarded to the Joint Village Coastal Management Commission within five (5) days of receipt from the applicant.
- c) The Chairman of the Commission shall determine if the application or direct action description, and any supporting material submitted, constitutes a full statement for the purpose of determining the consistency with the LWRP. The Chairman may request any other material deemed necessary for a complete review.

---

**\*An action means:**

- 1) a project or physical activity, such as construction or other activities, which changes the use or appearance of any natural resource or structure classified as a Type I or Unlisted Action pursuant to Local Law #5 of 1978 of the Village of Head-of-the-Harbor and Local Law #2 of 1985 of the Village of Nissequogue, which is:
  - a) directly undertaken by an agency;
  - b) involves funding by an agency; or
  - c) requires one or more permits or approvals from an agency or agencies;
- 2) planning activities of an agency that commit the agency to a course of action or future decisions;
- 3) agency rule, regulations, procedure and policy making; and
- 4) combinations of the above.

- d) If the Chairman determines that there are other interested agencies, a copy of the application and all supporting material, including the EAF and CAF, shall be forwarded to each interested agency.
- e) The Commission shall review the proposed action to determine whether it is consistent, consistent if conditions are met, or inconsistent with the LWRP. If inconsistent, the Commission shall include modifications that might be made to make the project consistent.
- f) While the Commission is determining the consistency of a proposed action with the LWRP, the originating agency (i.e. planning board, architectural review board, zoning board of appeals, Village Board, etc.) shall conduct its review as provided for in the applicable local laws of that Village.
- g) Within thirty (30) days of its receipt of the application, the Commission shall send its findings, in writing, to the originating agency. An originating agency may not take action on an application or a direct action until it has received and considered the consistency recommendation of the Commission in its decision.
- h) If the originating agency, after reviewing the written recommendations of the Commission finds that it disagrees with the consistency recommendation of the Commission, it shall prepare a written finding detailing its position within fifteen (15) days. The Commission and originating agency shall upon completion of the originating agency's findings, meet to resolve their differences.
- i) If the Commission and the originating agency cannot reach a mutually agreeable consistency determination, the matter will be referred to the Village Board of the Village in which the action occurs for final resolution. The originating agency may take no action until the Village Board has made its determination.

**4. Procedures for an Integrated Review of Municipal Actions Within the Local Waterfront Revitalization Area of Stony Brook Harbor, Smithtown Bay, and the Nissequogue River.**

- a) This procedure shall be used to implement an intermunicipal cooperative agreement for the consistency review of actions by the Town of Smithtown and the Villages of Head-of-the-Harbor and Nissequogue, and is in addition to the LWRP consistency laws of the Town of Smithtown and the Villages of Head-of-the-Harbor and Nissequogue, and applies to the LWRP areas of Stony Brook Harbor, the Nissequogue River from the southernmost municipal and jurisdictional boundaries of the Village of

Nissequogue and the Town of Smithtown northward to Smithtown Bay, and Smithtown Bay fifteen hundred feet (1500') offshore from the Nissequogue River's confluence with Smithtown Bay, easterly 1500' from shore to the confluence of Stony Brook Harbor with Smithtown Bay.

An action is defined as:

- 1) A project or physical activity, such as construction or other activities, which changes the use or appearance of any natural resource or structure classified as a Type I or an Unlisted Action pursuant to 6NYCRR Part 617, which is:
    - (a) directly undertaken by an agency;
    - (b) involves funding by an agency; or
    - (c) requires one or more permits or approvals from an agency or agencies.
  - 2) Planning activities of an agency that commit the agency to a course of future decisions;
  - 3) Agency rule, regulations, procedure and policy making; and
  - 4) Combination of the above.
- b) Notification procedures
- 1) When a Town of Smithtown agency is considering an action in the areas described above in Stony Brook Harbor, the Nissequogue River, or Smithtown Bay, the Town Planning Director or Chief Building Official as the case may be, shall notify the Villages of Head-of-the-Harbor and Nissequogue Joint Village Coastal Management Commission of such action; when a Village of Nissequogue agency is considering an action in Stony Brook Harbor, the Nissequogue River, or Smithtown Bay, or a Village of Head-of-the-Harbor agency is considering an action in Stony Brook Harbor, the Joint Village Coastal Management Commission shall notify the Town of Smithtown Planning Director of such action.
  - 2) Notification of a proposed action
    - (a) Shall fully describe the nature and location of the action;

- (b) Shall stipulate the dates and times of hearings, meetings, and review and comment periods;
- (c) Shall be accomplished by the exchange of Coastal Assessment Forms, Environmental Assessment Forms, copies of all applications and all supporting documentation;
- (d) Should be provided as early in the planning stages of the action as possible, but in any event at least thirty (30) days prior to the agency's decision on the action.

c) Review Procedures

1) Village Action

- (a) Upon receipt of the notification by the Town Planning Director from the Villages' Joint Coastal Management Commission, the Town Planning Director shall forward a copy of the notification to other interested and involved Town agencies and to the Town Board for review and comment.
- (b) The Town Board shall review the notification describing the proposed Village action against the policies and standards of the Town's approved LWRP, and shall receive and review comments from any other interested and involved Town agency on the consistency of such action within fifteen (15) days of such referral from the Town Planning Director.
- (c) If the Town Board can not identify any conflicts between the proposed Village action and the applicable policies and standards of the Town's approved LWRP, it shall notify the Town Planning Director of such finding, who will notify the Joint Village Coastal Management Commission of the Town Boards' finding.
- (d) If the Town Planning Director does not notify Village Officials in writing of the Town's finding within twenty five (25) days of receipt of the notification, the Village may assume that the proposed action does not conflict with the Town's approved LWRP.

- (e) If the Town Planning Director notifies Village officials in writing that the proposed action does conflict with the policies and standards of the Town's approved LWRP, the Village shall not proceed with the action until identified conflicts have been resolved in accordance with the procedures set forth herein.

2) **Town Action**

- (a) Upon receipt of notification by the Villages' Joint Coastal Management Commission from the Town Planning Director, the Commission Chairperson or the Chairperson's designee shall forward a copy of the notification to other interested and involved agencies.
- (b) The Joint Village Coastal Management Commission shall review the notification of the proposed Town action against the policies and standards of the Villages' approved LWRP.
- (c) If the Joint Village Coastal Management Commission can not identify any conflicts between the proposed Town action and the applicable policies and standards of the Villages' approved LWRP, the Chairperson shall notify the Town Planning Director of the Villages' finding.
- (d) If the Chairperson does not notify Town Officials in writing of the Villages' finding within twenty five (25) days of receipt of the notification, the Village may assume that the proposed action does not conflict with the Villages' approved LWRP.
- (e) If the Chairperson notifies Town officials in writing that the proposed action does conflict with the policies and standards of the Villages' approved LWRP, the Town shall not proceed with the action until identified conflicts have been resolved, in accordance with the procedures set forth herein.

d) **Resolution of Conflicts**

- 1) The following procedures shall apply whenever a proposed action conflicts with the policies and standards of the Villages of Head-of-the-Harbor and Nissequogue LWRP, or the Town of Smithtown LWRP.

- (a) The Chairperson of the Joint Village Coastal Management Commission or the Chairperson's designated representative and the Supervisor of the Town Board or the Supervisor's designated representative within fifteen (15) days of receipt of written notification of a finding that a proposed action conflicts with an LWRP policy or standard, may meet to resolve such conflicts with respect to the consistency of the proposed action with the relevant LWRP.
- (b) If the Chairperson of the Joint Village Coastal Management Commission or the Chairperson's designated representative and Supervisor of the Town or the Supervisor's designated representative can settle the conflicts by a mutually agreeable decision, and their respective Commission and Town Board approve of such decision by resolution, the originating agency may proceed with the implementation of the action. In passing the resolution approving such decision, the Commission and Town Board shall act within fifteen (15) days from the date of referral of the proposed conflict settlement decision: failure to act within this time frame shall be deemed to be an approval of the action.
- (c) If the conflicts can not be resolved by a mutually agreeable decision, or the Chairperson of the Joint Village Coastal Management Commission or the Chairperson's designated representative and the Supervisor of the Town or the Supervisor's designated representative shall fail to have met within the required time as set forth in this chapter, then the matter will be referred to the respective Village Board of Trustees and Town Board for resolution pursuant to the procedures of the Chapter.

The municipality which determines that the proposed action conflicts with its LWRP may prepare and file with the clerk of the municipality proposing the action a memorandum of protest with regard to the inconsistency of the proposed action. The memorandum of protest must contain a statement indicating the reasons for the inconsistency of the proposed action and recommend reasonable alterations, alternatives or modifications to the proposed action. When such memorandum of protest is filed, the municipality proposing the action shall not act contrary to such memorandum of protest except by a vote of a majority plus one of all the Board members thereof.

Such action shall be subject to judicial review pursuant to the law providing for review of acts of such municipal agencies, commenced within thirty (30) days of its adoption or passage.

- (d) The Town Board and the Joint Village Coastal Management Commission may mutually agree to extend any time limitation designated in this Chapter. Failure to act within the time requirement of this Chapter shall be deemed to be the equivalent of approval of such action by the non-acting municipality.

**5. Procedures to Review State Actions for Consistency with LWRP**

**a) Notification Procedure**

- 1) When a State agency is considering an action, the State agency shall notify the Mayor of the Village in which the action is located.
- 2) Notification of a proposed action by a State agency:
  - (a) Shall fully describe the nature and location of the action;
  - (b) Shall be accomplished by use of either the State Clearinghouse, other existing State agency notification procedures, or through any alternative procedure agreed upon by the State agency and local government;
  - (c) Should be provided to the Mayor as early in the planning stages of the action as possible, but in any event at least 30 days prior to the agency's decision on the action.
- 3) If the proposed action will require the preparation of a draft environmental impact statement, the filing of this draft document with the Mayor in each Village can serve as the State agency's notification to the local government.

**b) Local Government Review Procedure**

- 1) Upon receipt of notification from a State agency, the Mayor will refer the notification to the Commission which will be responsible for evaluating a proposed action against the policies and purposes

of the approved LWRP. It shall notify the Mayor of the Village in which action occurs of its findings.

- 2) If the Commission cannot identify any conflicts between the proposed action and the applicable policies and purposes of the approved LWRP. The Mayor should inform the State agency in writing of the Commission's finding. Upon receipt of the Commission's finding, the State agency may proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600.
- 3) If the Mayor does not notify the State agency in writing of the Commission's finding within the established review period, the State agency may then presume that the proposed action does not conflict with the policies and purposes of the approved LWRP.
- 4) If the Mayor notifies the State agency in writing that the proposed action does conflict with the policies and/or purposes of the approved LWRP, the State agency shall not proceed with the action for a period of 90 days or until the identified conflicts have been resolved, whichever is earlier. The Mayor shall forward a copy of the identified conflicts to the Secretary of State at the time when the State agency is notified. In notifying the State agency, the Village shall identify the specific policies and purposes of the LWRP with which the proposed action conflicts.

c) Resolution of Conflicts

- 1) In accordance with the procedural guidelines issued by the Department of State: the following procedure shall apply whenever the Mayor has notified the Secretary of State and the State agency that a proposed action conflicts with the policies and purposes of its approved LWRP.
  - (a) Upon receipt of notification from the Mayor that a proposed action conflicts with its approved LWRP, the State agency should contact the Mayor to discuss the content of the identified conflicts and the means for resolving them. A meeting of State agency and Village representatives may be necessary to discuss and resolve the identified conflicts. This discussion should take place within 30 days of the receipt of a conflict notification from the Mayor.

- (b) If the discussion between the Village and the State agency results in the resolution of the identified conflicts, the State agency can then proceed with its consideration of the proposed action in accordance with 19 NYCRR Part 600. The Mayor shall notify the State agency, in writing, with a copy forwarded to the Secretary of State, that all of the identified conflicts have been resolved.
- (c) If the consultation between the Village and the State agency does not lead to the resolution of the identified conflicts, either party may request, in writing, the assistance of the Secretary of State to resolve any or all of the identified conflicts. This request must be received by the Secretary within 15 days following the discussion between the Village and the State agency. The party requesting the assistance of the Secretary of State shall forward a copy of their request to the other party.
- (d) Within 30 days following the receipt of a request for assistance, the Secretary or a Department of State official or employee designated by the Secretary, will discuss the identified conflicts and circumstances preventing their resolution with appropriate representatives from the State agency and Village.
- (e) If agreement among all parties cannot be reached during this discussion, the Secretary shall, within 15 days, notify both parties of the Secretary's findings and recommendations.
- (f) The State agency shall not proceed with the proposed action until either the Secretary's findings and recommendations have been received, or 90 days from the date a notification of a conflict was received from the Mayor, whichever is earlier.

**6. Procedures for Department of State and Villages of Head-of-the-Harbor and Nissequogue Review of Federal Actions for Consistency with the LWRP.**

a) Permits and Licenses

- 1) The Department of State (DOS) will acknowledge the receipt of an applicant's consistency certification and application materials, and

at the time forward a copy of the submitted documentation to the Mayor.

- 2) Within thirty (30) days of receiving such information, the Mayor, or the Mayor's designated representative will contact the assigned DOS reviewer to discuss: (1) the need to request additional information for review purposes; and (b) any possible problems pertaining to the consistency of a proposed action with local coastal policies.
- 3) When the DOS and Village agree that additional information is necessary, the DOS will request the applicant to provide the information. A copy of this information will be provided to the Mayor upon request.
- 4) Within thirty (30) days of receiving the requested additional information or discussing possible problems of a proposed action with the DOS reviewer, whichever is later, the Mayor will notify DOS of the reasons why a proposed action may be inconsistent or consistent with Village coastal policies.
- 5) After that notification, the Mayor will submit any written comments and recommendations on a proposed permit action to the DOS before or at the conclusion of the official public comment period. If such comments and recommendations are not forwarded to DOS by the end of the public comment period, DOS will presume that the Village has "no opinion" on the consistency of the proposed action with Village coastal policies.
- 6) If the DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Mayor on a proposed permit action, DOS will contact the Commission Chairman to discuss any differences of opinion prior to issuing its letter of "concurrence" or "objection" to the applicant.
- 7) A copy of DOS' "concurrence" or "objection" letter to the applicant will be forwarded to the Mayor.

b) Direct Actions

- 1) After acknowledging the receipt of a consistency determination and supporting documentation from a Federal agency, DOS will forward copies of the determination and other descriptive

information on the proposed direct action to the Mayor and other interested parties.

- 2) This notification will state the date by which all comments and recommendations must be submitted to DOS and will identify the assigned DOS reviewer.
- 3) The review period will be about twenty-five (25) days. If comments and recommendations are not received by the end of the established review period, DOS will presume that the Village has "no opinion" on the consistency of the proposed direct Federal agency action with Village coastal policies.
- 4) If DOS does not fully concur with and/or has any questions on the comments and recommendations submitted by the Mayor, DOS will contact the Mayor to discuss any differences of opinion or questions prior to agreeing or disagreeing with the Federal agency's consistency determination on the proposed direct action.
- 5) A copy of DOS' "agreement" or "disagreement" letter to the Federal agency will be forwarded to the Mayor.

c) Financial Assistance

- 1) DOS will request information on a proposed financial assistance action from the applicant (State or Village agency) for consistency review purposes. A copy of this letter will be forwarded to the Mayor and will serve as notification that the proposed action may be subject to review.
- 2) If the applicant is a Village agency, the Mayor will contact the agency and request copies of any application documentation for consistency review purposes. If the proposed action has already been reviewed by the Commission for consistency with the LWRP, the Mayor will notify DOS of the outcome of that review.
- 3) The Mayor will acknowledge receipt of the requested information and send a copy to the DOS.
- 4) If the applicant is a State agency, DOS will request the agency to provide a copy of the application documentation to the Mayor.
- 5) The DOS will acknowledge the receipt of the requested information and provide a copy of this acknowledgement to the Mayor.

- 6) The review period will conclude thirty (30) days after the date of the Mayor's or DOS' letter of acknowledgement.
- 7) The Mayor must submit any comments and recommendations on the proposed action to DOS within twenty (20) days from the start of the review period. If comments and recommendations are not received within that twenty-day period, DOS will presume that the Village has "no opinion" on the consistency of the proposed financial assistance action with local coastal policies.
- 8) If the DOS does not fully concur with or has any questions on the comments and recommendations submitted by the Mayor, the DOS will contact the Mayor to discuss any differences of opinion prior to agreeing or objecting to the Federal agency's consistency determination on the proposed financial assistance or action.
- 9) A copy of DOS' "no objection" or "objection" letter to the applicant will be forwarded to the Mayor.

**E. FINANCIAL RESOURCES NECESSARY TO IMPLEMENT THE LWRP**

Financing the implementation of the LWRP falls into the following two broad categories: (1) day-to-day management of the program and (2) development of long-term projects and program refinement.

The Villages have traditionally operated on the basis of residents volunteering to serve on boards to implement local laws, such as zoning and architectural review, or to promote important activities such as the Conservation Advisory Council. The LWRP was prepared by such a volunteer citizen group. The operating costs of these local boards are provided by the Village government. The operating expenses of the Joint Village Coastal Management Commission are a part of the regular budgets of the two Villages. Operating expenses will be offset by instituting a fee structure and by coordinating the activities of the Commission with existing boards.

The long-term projects and program refinement activities described in Part IV qualify for funding support from state, federal and private sources. The Villages, with the guidance of the Commission, will pursue support from these other sources. The Commission and the municipal governments will work closely with the DOS Division of Coastal Resources and Waterfront Revitalization to secure these outside funds.

**F. SUMMARY CHART OF ACTIONS IMPLEMENTING LWRP POLICIES**

Sections IV and V presented discussions of projects, laws and other activities necessary to implement the LWRP. These methods are summarized in the following charts.





**SECTION VI**

**STATE AND FEDERAL ACTIONS AND PROGRAMS  
LIKELY TO AFFECT IMPLEMENTATION**

## **SECTION VI: STATE AND FEDERAL ACTIONS AND PROGRAMS LIKELY TO AFFECT IMPLEMENTATION**

State and Federal actions will affect and be affected by implementation of the LWRP. Under State law and the U.S. Coastal Zone Management Act, certain State and Federal actions within or affecting the local waterfront area must be "consistent" or "consistent to the maximum extent practicable" with the enforceable policies and purposes of the LWRP. This consistency requirement makes the LWRP a unique, intergovernmental mechanism for setting policy and making decisions and helps to prevent detrimental actions from occurring and future options from being needlessly foreclosed. At the same time, the active participation of State and Federal agencies is also likely to be necessary to implement specific provisions of the LWRP.

The first part of this section identifies the actions and programs of State and Federal agencies which should be undertaken in a manner consistent with the LWRP. This is a generic list of actions and programs, as identified by the NYS Department of State; therefore, some of the actions and programs listed may not be relevant to this LWRP. Pursuant to the State Waterfront Revitalization and Coastal Resources Act (Executive Law, Article 42), the Secretary of State individually and separately notifies affected State agencies of those agency actions and programs which are to be undertaken in a manner consistent with approved LWRPs. Similarly, Federal agency actions and programs subject to consistency requirements are identified in the manner prescribed by the U.S. Coastal Zone Management Act and its implementing regulations. The lists of State and Federal actions and programs included herein are informational only and do not represent or substitute for the required identification and notification procedures. The current official lists of actions subject to State and Federal consistency requirements may be obtained from the NYS Department of State.

The second part of this section is a more focused and descriptive list of State and Federal agency actions which are necessary to further implement the LWRP. It is recognized that a State or Federal agency's ability to undertake such actions is subject to a variety of factors and considerations; that the consistency provisions referred to above, may not apply; and that the consistency requirements can not be used to require a State or Federal agency to undertake an action it could not undertake pursuant to other provisions of law. Reference should be made to Section IV and Section V, which also discuss State and Federal assistance needed to implement the LWRP.

**A. STATE AND FEDERAL ACTIONS AND PROGRAMS WHICH SHOULD BE UNDERTAKEN IN A MANNER CONSISTENT WITH THE LWRP**

**1. State Agencies**

**OFFICE FOR THE AGING**

- 1.00 Funding and/or approval programs for the establishment of new or expanded facilities providing various services for the elderly.

**DEPARTMENT OF AGRICULTURE AND MARKETS**

- 1.00 Agricultural Districts Program  
2.00 Rural Development Program  
3.00 Farm Worker Services Programs.  
4.00 Permit and approval programs:  
  
4.01 Custom Slaughters/Processor Permit  
4.02 Processing Plant License  
4.03 Refrigerated Warehouse and/or Locker Plant License

**DIVISION OF ALCOHOLIC BEVERAGE CONTROL/STATE LIQUOR AUTHORITY**

- 1.00 Permit and Approval Programs:  
  
1.01 Ball Park - Stadium License  
1.02 Bottle Club License  
1.03 Bottling Permits  
1.04 Brewer's Licenses and Permits  
1.05 Brewer's Retail Beer License  
1.06 Catering Establishment Liquor License  
1.07 Cider Producer's and Wholesaler's Licenses  
1.08 Club Beer, Liquor, and Wine Licenses  
1.09 Distiller's Licenses  
1.10 Drug Store, Eating Place, and Grocery Store Beer Licenses  
1.11 Farm Winery and Winery Licenses  
1.12 Hotel Beer, Wine, and Liquor Licenses  
1.13 Industrial Alcohol Manufacturer's Permits  
1.14 Liquor Store License  
1.15 On-Premises Liquor Licenses

- 1.16 Plenary Permit (Miscellaneous-Annual)
- 1.17 Summer Beer and Liquor Licenses
- 1.18 Tavern/Restaurant and Restaurant Wine Licenses
- 1.19 Vessel Beer and Liquor Licenses
- 1.20 Warehouse Permit
- 1.21 Wine Store License
- 1.22 Winter Beer and Liquor Licenses
- 1.23 Wholesale Beer, Wine, and Liquor Licenses

#### **DIVISION OF ALCOHOLISM AND ALCOHOL ABUSE**

- 1.00 Facilities, construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Letter Approval for Certificate of Need
  - 2.02 Operating Certificate (Alcoholism Facility)
  - 2.03 Operating Certificate (Community Residence)
  - 2.04 Operating Certificate (Outpatient Facility)
  - 2.05 Operating Certificate (Sobering-Up Station)

#### **COUNCIL ON THE ARTS**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Architecture and environmental arts program.

#### **DEPARTMENT OF BANKING**

- 1.00 Permit and approval programs:
  - 1.01 Authorization Certificate (Bank Branch)
  - 1.02 Authorization Certificate (Bank Change of Location)
  - 1.03 Authorization Certificate (Bank Charter)
  - 1.04 Authorization Certificate (Credit Union Change of Location)
  - 1.05 Authorization Certificate (Credit Union Charter)
  - 1.06 Authorization Certificate (Credit Union Station)
  - 1.07 Authorization Certificate (Foreign Banking Corporation Change of Location)

- 1.08 Authorization Certificate (Foreign Banking Corporation Public Accommodations Office)
- 1.09 Authorization Certificate (Investment Company Branch)
- 1.10 Authorization Certificate (Investment Company Change of Location)
- 1.11 Authorization Certificate (Investment Company Charter)
- 1.12 Authorization Certificate (Licensed Lender Change of Location)
- 1.13 Authorization Certificate (Mutual Trust Company Charter)
- 1.14 Authorization Certificate (Private Banker Charter)
- 1.15 Authorization Certificate (Public Accommodation Office - Banks)
- 1.16 Authorization Certificate (Safe Deposit Company Branch)
- 1.17 Authorization Certificate (Safe Deposit Company Change of Location)
- 1.18 Authorization Certificate (Safe Deposit Company Charter)
- 1.19 Authorization Certificate (Savings Bank Charter)
- 1.20 Authorization Certificate (Savings Bank De Novo Branch Office)
- 1.21 Authorization Certificate (Savings Bank Public Accommodations Office)
- 1.22 Authorization Certificate (Savings and Loan Association Branch)
- 1.23 Authorization Certificate (Savings and Loan Association Change of Location)
- 1.24 Authorization Certificate (Savings and Loan Association Charter)
- 1.25 Authorization Certificate (Subsidiary Trust Company Charter)
- 1.26 Authorization Certificate (Trust Company Branch)
- 1.27 Authorization Certificate (Trust Company-Change of Location)
- 1.28 Authorization Certificate (Trust Company Charter)
- 1.29 Authorization Certificate (Trust Company Public Accommodations Office)
- 1.30 Authorization to Establish a Life Insurance Agency
- 1.31 License as a Licensed Lender
- 1.32 License for a Foreign Banking Corporation Branch

#### **DEPARTMENT OF COMMERCE**

- 1.00 Preparation or revision of statewide or specific plans to address State economic development needs.
- 2.00 Allocation of the state tax-free bonding reserve.

#### **DEPARTMENT OF CORRECTIONAL SERVICES**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

## **DORMITORY AUTHORITY OF THE STATE OF NEW YORK**

- 1.00 Financing of higher education and health care facilities.
- 2.00 Planning and design services assistance program.

## **EDUCATION DEPARTMENT**

- 1.00 Facilities construction, rehabilitation, expansion, demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Certification of Incorporation (Regents Charter)
  - 2.02 Private Business School Registration
  - 2.03 Private School License
  - 2.04 Registered Manufacturer of Drugs and/or Devices
  - 2.05 Registered Pharmacy Certificate
  - 2.06 Registered Wholesale of Drugs and/or Devices
  - 2.07 Registered Wholesaler-Repacker of Drugs and/or Devices
  - 2.08 Storekeeper's Certificate

## **ENERGY PLANNING BOARD AND ENERGY OFFICE**

- 1.00 Preparation and revision of the State Energy Master Plan.

## **NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY**

- 1.00 Issuance of revenue bonds to finance pollution abatement modifications in power-generation facilities and various energy projects.

## **DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of lands under the jurisdiction of the Department.
- 2.00 Classification of Waters Program; classification of land areas under the Clean Air Act.

- 3.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 4.00 Financial assistance/grant programs:
  - 4.01 Capital projects for limiting air pollution
  - 4.02 Cleanup of toxic waste dumps
  - 4.03 Flood control, beach erosion and other water resource projects
  - 4.04 Operating aid to municipal wastewater treatment facilities
  - 4.05 Resource recovery and solid waste management capital projects
  - 4.06 Wastewater treatment facilities
- 5.00 Funding assistance for issuance of permits and other regulatory activities (New York City only).
- 6.00 Implementation of the Environmental Quality Bond Act of 1972, including:
  - (a) Water Quality Improvement Projects;
  - (b) Land Preservation and Improvement Projects including Wetland Preservation and Restoration Projects, Unique Area Preservation Projects, Metropolitan Parks Projects, Open Space Preservation Projects and Waterways Projects.
- 7.00 Marine Finfish and Shellfish Programs.
- 8.00 New York Harbor Drift Removal Project.
- 9.00 Permit and approval programs:

Air Resources

- 9.01 Certificate of Approval for Air Pollution Episode Action Plan
- 9.02 Certificate of Compliance for Tax Relief - Air Pollution Control Facility
- 9.03 Certificate to Operate: Stationary Combustion Installation; Incinerator; Process, Exhaust or Ventilation System
- 9.04 Permit for Burial of Radioactive Material
- 9.05 Permit for Discharge of Radioactive Material to Sanitary Sewer
- 9.06 Permit for Restricted Burning
- 9.07 Permit to Construct: Stationary Combustion Installation; Incinerator; Indirect Source of Air Contamination; Process, Exhaust or Ventilation System

### Construction Management

- 9.08 Approval of Plans and Specifications for Wastewater Treatment Facilities

### Fish and Wildlife

- 9.09 Certificate to Possess and Sell Hatchery Trout in New York State
- 9.10 Commercial Inland Fisheries Licenses
- 9.11 Fishing Preserve License
- 9.12 Fur Breeder's License
- 9.13 Game Dealer's License
- 9.14 Licenses to Breed Domestic Game Animals
- 9.15 License to Possess and Sell Live Game
- 9.16 Permit to Import, Transport and/or Export under Section 184.1 (11-0511)
- 9.17 Permit to Raise and Sell Trout
- 9.18 Private Bass Hatchery Permit
- 9.19 Shooting Preserve Licenses
- 9.20 Taxidermy License

### Lands and Forest

- 9.21 Certificate of Environmental Safety (Liquid Natural Gas and Liquid Petroleum Gas)
- 9.22 Floating Object Permit
- 9.23 Marine Regatta Permit
- 9.24 Mining Permit
- 9.25 Navigation Aid Permit
- 9.26 Permit to Plug and Abandon (a non-commercial, oil, gas or solution mining well)
- 9.27 Permit to Use Chemicals for the Control or Elimination of Aquatic Insects
- 9.28 Permit to Use Chemicals for the Control or Elimination of Aquatic Vegetation
- 9.29 Permit to Use Chemicals for the Control or Extermination of Undesirable Fish
- 9.30 Underground Storage Permit (Gas)
- 9.31 Well Drilling Permit (Oil, Gas, and Solution Salt Mining)

### Marine Resources

- 9.32 Digger's Permit (Shellfish)
- 9.33 License of Menhaden Fishing Vessel
- 9.34 License for Non-Resident Food Fishing Vessel
- 9.35 Non-Resident Lobster Permit
- 9.36 Marine Hatchery and/or Off-Bottom Culture Shellfish Permits
- 9.37 Permits to Take Blue-Claw Crabs
- 9.38 Permit to Use Pond or Trap Net
- 9.39 Resident Commercial Lobster Permit
- 9.40 Shellfish Bed Permit
- 9.41 Shellfish Shipper's Permits
- 9.42 Special Permit to Take Surf Clams from Waters other than the Atlantic Ocean

### Regulatory Affairs

- 9.43 Approval - Drainage Improvement District
- 9.44 Approval - Water (Diversion for) Power
- 9.45 Approval of Well System and Permit to Operate
- 9.46 Permit - Article 15, (Protection of Water) - Dam
- 9.47 Permit - Article 15, (Protection of Water) - Dock, Pier or Wharf
- 9.48 Permit - Article 15, (Protection of Water) - Dredge or Deposit Material in a Waterway
- 9.49 Permit - Article 15, (Protection of Water) - Stream Bed or Bank Disturbances
- 9.50 Permit - Article 15, Title 15 (Water Supply)
- 9.51 Permit - Article 24, (Freshwater Wetlands)
- 9.52 Permit - Article 25, (Tidal Wetlands)
- 9.53 River Improvement District Approvals
- 9.54 River Regulatory District Approvals
- 9.55 Well Drilling Certificate of Registration

### Solid Wastes

- 9.56 Permit to Construct and/or Operate a Solid Waste Management Facility
- 9.57 Septic Tank Cleaner and Industrial Waste Collector Permit

### Water Resources

- 9.58 Approval of Plans for Wastewater Disposal Systems
- 9.59 Certificate of Approval of Realty Subdivision Plans
- 9.60 Certificate of Compliance (Industrial Wastewater Treatment Facility)

- 9.61 Letters of Certification for Major Onshore Petroleum Facility Oil Spill Prevention and Control Plan
- 9.62 Permit - Article 36, (Construction in Flood Hazard Areas)
- 9.63 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.64 Permit for State Agency Activities for Development in Coastal Erosion Hazards Areas
- 9.65 State Pollutant Discharge Elimination System (SPDES) Permit
- 9.66 401 Water Quality Certification

10.00 Preparation and revision of Air Pollution State Implementation Plan.

11.00 Preparation and revision of Continuous Executive Program Plan.

12.00 Preparation and revision of Statewide Environmental Plan.

13.00 Protection of Natural and Man-made Beauty Program.

14.00 Urban Fisheries Program.

15.00 Urban Forestry Program.

16.00 Urban Wildlife Program.

#### **ENVIRONMENTAL FACILITIES CORPORATION**

- 1.00 Financing program for pollution control facilities for industrial firms and small businesses.

#### **FACILITIES DEVELOPMENT CORPORATION**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

#### **OFFICE OF GENERAL SERVICES**

- 1.00 Administration of the Public Lands Law for acquisition and disposition of lands, grants of land and grants of easement of land under water, issuance of licenses for removal of materials from lands under water, and oil and gas leases for exploration and development.

- 2.00 Administration of Article 4-B, Public Buildings Law, in regard to the protection and management of State historic and cultural properties and State uses of buildings of historic, architectural or cultural significance.
- 3.00 Facilities construction, rehabilitation, expansion, or demolition.

#### **DEPARTMENT OF HEALTH**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Approval of Completed Works for Public Water Supply Improvements
  - 2.02 Approval of Plans for Public Water Supply Improvements
  - 2.03 Certificate of Need (Health Related Facility - except Hospitals)
  - 2.04 Certificate of Need (Hospitals)
  - 2.05 Operating Certificate (Diagnostic and Treatment Center)
  - 2.06 Operating Certificate (Health Related Facility)
  - 2.07 Operating Certificate (Hospice)
  - 2.08 Operating Certificate (Hospital)
  - 2.09 Operating Certificate (Nursing Home)
  - 2.10 Permit to Operate a Children's Overnight or Day Camp
  - 2.11 Permit to Operate a Migrant Labor Camp
  - 2.12 Permit to Operate as a Retail Frozen Dessert Manufacturer
  - 2.13 Permit to Operate a Service Food Establishment
  - 2.14 Permit to Operate a Temporary Residence/Mass Gathering
  - 2.15 Permit to Operate or Maintain a Swimming Pool or Public Bathing Beach
  - 2.16 Permit to Operate Sanitary Facilities for Realty Subdivisions
  - 2.17 Shared Health Facility Registration Certificate

#### **DIVISION OF HOUSING AND COMMUNITY RENEWAL and its subsidiaries and affiliates**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition.
- 2.00 Financial assistance/grant programs:
  - 2.01 Federal Housing Assistance Payments Programs (Section 8 Programs)
  - 2.02 Housing Development Fund Programs
  - 2.03 Neighborhood Preservation Companies Program

- 2.04 Public Housing Programs
- 2.05 Rural Initiatives Grant Program
- 2.06 Rural Preservation Companies Program
- 2.07 Rural Rental Assistance Program
- 2.08 Special Needs Demonstration Projects
- 2.09 Urban Initiatives Grant Program
- 2.10 Urban Renewal Programs

- 3.00 Preparation and implementation of plans to address housing and community renewal needs.

#### **HOUSING FINANCE AGENCY**

- 1.00 Funding programs for the construction, rehabilitation, or expansion of facilities.
- 2.00 Affordable Housing Corporation.

#### **INTERSTATE SANITATION COMMISSION (regional agency)**

- 1.00 Adoption and enforcement of air and water pollution standards within the Interstate Sanitation District.

#### **JOB DEVELOPMENT AUTHORITY**

- 1.00 Financing assistance programs for commercial and industrial facilities.

#### **MEDICAL CARE FACILITIES FINANCING AGENCY**

- 1.00 Financing of medical care facilities.

#### **OFFICE OF MENTAL HEALTH**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Operating Certificate (Community Residence)
  - 2.02 Operating Certificate (Family Care Homes)

- 2.03 Operating Certificate (Inpatient Facility)
- 2.04 Operating Certificate (Outpatient Facility)

#### **OFFICE OF MENTAL RETARDATION AND DEVELOPMENT DISABILITIES**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Establishment and Construction Prior Approval
  - 2.02 Operating Certificate Community Residence
  - 2.03 Outpatient Facility Operating Certificate

#### **DIVISION OF MILITARY AND NAVAL AFFAIRS**

- 1.00 Preparation and implementation of the State Disaster Preparedness Plan.

#### **NATURAL HERITAGE TRUST**

- 1.00 Funding program for natural heritage institutions.

#### **OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION (including Regional State Park Commission)**

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Office.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 3.00 Funding program for recreational boating, safety and enforcement.
- 4.00 Funding program for State and local historic preservation projects.
- 5.00 Land and Water Conservation Fund programs.
- 6.00 Nomination of properties to the Federal and/or State Register of Historic Places.

**7.00 Permit and approval programs:**

- 7.01 Floating Objects Permit
- 7.02 Marine Regatta Permit
- 7.03 Navigation Aide Permit
- 7.04 Posting of Signs Outside State Parks

**8.00 Preparation and revision of the Statewide Comprehensive Outdoor Recreation Plan and the Statewide Comprehensive Historic Preservation Plan and other plans for public access, recreation, historic preservation or related purposes.**

**9.00 Recreation services program.**

**10.00 Urban Cultural Parks Program.**

**POWER AUTHORITY OF THE STATE OF NEW YORK**

**1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Authority.**

**2.00 Facilities construction, rehabilitation, expansion, or demolition.**

**NEW YORK STATE SCIENCE AND TECHNOLOGY FOUNDATION**

**1.00 Corporation for Innovation Development Program.**

**2.00 Center for Advanced Technology Program.**

**DEPARTMENT OF SOCIAL SERVICES**

**1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.**

**2.00 Homeless Housing and Assistance Program.**

**3.00 Permit and approval programs:**

- 3.01 Certificate of Incorporation (Adult Residential Care Facilities)
- 3.02 Operating Certificate (Children's Services)
- 3.03 Operating Certificate (Enriched Housing Program)
- 3.04 Operating Certificate (Home for Adults)

- 3.05 Operating Certificate (Proprietary Home)
- 3.06 Operating Certificate (Public Home)
- 3.07 Operating Certificate (Special Care Home)
- 3.08 Permit to Operate a Day Care Center

#### **DEPARTMENT OF STATE**

- 1.00 Appalachian Regional Development Program.
- 2.00 Coastal Management Program.
- 3.00 Community Services Block Grant Program.
- 4.00 Permit and approval programs:
  - 4.01 Billiard Room License
  - 4.02 Cemetery Operator
  - 4.03 Uniform Fire Prevention and Building Code

#### **STATE UNIVERSITY CONSTRUCTION FUND**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.

#### **STATE UNIVERSITY OF NEW YORK**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the University.
- 2.00 Facilities construction, rehabilitation, expansion, or demolition.

#### **DIVISION OF SUBSTANCE ABUSE SERVICES**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding of such activities.
- 2.00 Permit and approval programs:
  - 2.01 Certificate of Approval (Substance Abuse Services Program)

## **DEPARTMENT OF TRANSPORTATION**

- 1.00 Acquisition, disposition, lease, grant of easement and other activities related to the management of land under the jurisdiction of the Department.
- 2.00 Construction, rehabilitation, expansion, or demolition of facilities, including but not limited to:
  - (a) Highways and parkways
  - (b) Bridges on the State highways system
  - (c) Highway and parkway maintenance facilities
  - (d) Barge Canal
  - (e) Rail facilities
- 3.00 Financial assistance/grant programs:
  - 3.01 Funding programs for construction/reconstruction and reconditioning/preservation of municipal streets and highways (excluding routine maintenance and minor rehabilitation)
  - 3.02 Funding programs for development of the ports of Albany, Buffalo, Oswego, Ogdensburg and New York
  - 3.03 Funding programs for rehabilitation and replacement of municipal bridges
  - 3.04 Subsidies program for marginal branchlines abandoned by Conrail
  - 3.05 Subsidies program for passenger rail service
- 4.00 Permits and approval programs:
  - 4.01 Approval of applications for airport improvements (construction projects)
  - 4.02 Approval of municipal applications for Section 18 Rural and Small Urban Transit Assistance Grants (construction projects)
  - 4.03 Approval of municipal or regional transportation authority applications for funds for design, construction and rehabilitation of omnibus maintenance and storage facilities
  - 4.04 Approval of municipal or regional transportation authority applications for funds for design and construction of rapid transit facilities

- 4.05 Certificate of Convenience and Necessity to Operate a Railroad
- 4.06 Highway Work Permits
- 4.07 License to Operate Major Petroleum Facilities
- 4.08 Outdoor Advertising Permit (for off-premises advertising signs adjacent to interstate and primary highway)
- 4.09 Permits for Use and Occupancy of N.Y. State Canal Lands (except Regional Permits [Snow Dumping])
- 4.10 Real Property Division Permit for Use of State-Owned Property
- 5.00 Preparation or revision of the Statewide Master Plan for Transportation and sub-area or special plans and studies related to the transportation needs of the State.
- 6.00 Water Operation and Maintenance Program--Activities related to the containment of petroleum spills and development of an emergency oil-spill control network.

**URBAN DEVELOPMENT CORPORATION and its subsidiaries and affiliates**

- 1.00 Acquisition, disposition, lease, grant of easement or other activities related to the management of land under the jurisdiction of the Corporation.
- 2.00 Construction, rehabilitation, expansion, or demolition of residential, commercial, industrial, and civic facilities and the funding of such activities, including, but not limited to, actions under the following programs:
  - (a) Tax-Exempt Financing Program
  - (b) Lease Collateral Program
  - (c) Lease Financial Program
  - (d) Targeted Investment Program
  - (e) Industrial Buildings Recycling Program

**DIVISION OF YOUTH**

- 1.00 Facilities construction, rehabilitation, expansion, or demolition or the funding or approval of such activities.

**2. Federal Agencies**

**DIRECT FEDERAL ACTIVITIES AND DEVELOPMENT PROJECTS:**

**DEPARTMENT OF COMMERCE**

**National Marine Fisheries Services**

- 1.00 Fisheries Management Plans.

**DEPARTMENT OF DEFENSE**

**Army Corps of Engineers**

- 1.00 Proposed authorizations for dredging, channel improvements, break-waters, other navigational works, or erosion control structures, beach replenishment, dams or flood control works, ice management practices and activities, and other projects with potential to impact coastal lands and waters.
- 2.00 Land acquisition for spoil disposal or other purposes.
- 3.00 Selection of open water disposal sites.

**Army, Navy and Air Force**

- 4.00 Location, design, and acquisition of new or expanded defense installations (active or reserve status, including associated housing, transportation or other facilities).
- 5.00 Plans, procedures and facilities for landing or storage use zones.
- 6.00 Establishment of impact, compatibility or restricted use zones.

**DEPARTMENT OF ENERGY**

- 1.00 Prohibition orders.

**GENERAL SERVICES ADMINISTRATION**

- 1.00 Acquisition, location and design of proposed Federal Government property or buildings, whether leased or owned by the Federal Government.
- 2.00 Disposition of Federal surplus lands and structures.

## **DEPARTMENT OF INTERIOR**

### **Fish and Wildlife Service**

- 1.00 Management of National Wildlife refuges and proposed acquisitions.

### **Mineral Management Service**

- 2.00 OCS lease sale activities including tract selection, lease sale stipulations, etc.

### **National Park Service**

- 3.00 National Park and Seashore management and proposed acquisitions.

## **DEPARTMENT OF TRANSPORTATION**

### **Amtrak, Conrail**

- 1.00 Expansions, curtailments, new construction, upgradings or abandonments or railroad facilities or services, in or affecting the State's coastal area.

### **Coast Guard**

- 2.00 Location and design, construction or enlargement of Coast Guard stations, bases, and lighthouses.
- 3.00 Location, placement or removal of navigation devices which are not part of the routine operations under the Aids to Navigation Program (ATON).
- 4.00 Expansion, abandonment, designation or anchorages, lightering areas or shipping lanes and ice management practices and activities.

### **Federal Aviation Administration**

- 5.00 Location and design, construction, maintenance, and demolition of Federal aids to air navigation.

### **Federal Highway Administration**

- 6.00 Highway construction.

St. Lawrence Seaway Development Corporation

- 7.00 Acquisition, location, design, improvement and construction of new and existing facilities for the operation of the Seaway, including traffic safety, traffic control and length of navigation season.

**FEDERAL LICENSES AND PERMITS:**

**DEPARTMENT OF DEFENSE**

Army Corps of Engineers

- 1.00 Construction of dams, dikes or ditches across navigable waters, or obstruction or alteration of navigable waters required under Sections 9 and 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 401, 403).
- 2.00 Establishment of harbor lines pursuant to Section 11 of the Rivers and Harbors Act of 1899 (33 U.S.C. 404, 405).
- 3.00 Occupation of seawall, bulkhead, jetty, dike, levee, wharf, pier, or other work built by the U.S. pursuant to Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. 408).
- 4.00 Approval of plans for improvements made at private expense under USACE supervision pursuant to the Rivers and Harbors Act of 1902 (33 U.S.C. 565).
- 5.00 Disposal of dredged spoils into the waters of the U.S., pursuant to the Clean Water Act, Section 404, (33 U.S.C. 1344).
- 6.00 All actions for which permits are required pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
- 7.00 Construction of artificial islands and fixed structures in Long Island Sound pursuant to Section 4(f) of the River and Harbors Act of 1912 (33 U.S.C.).

**DEPARTMENT OF ENERGY**

Economic Regulatory Commission

- 1.00 Regulation of gas pipelines, and licensing of import or export of natural gas pursuant to the Natural Gas Act (15 U.S.C. 717) and the Energy Reorganization Act of 1974.

- 2.00 Exemptions from prohibition orders.

#### Federal Energy Regulatory Commission

- 3.00 Licenses for non-Federal hydroelectric projects and primary transmission lines under Sections 3(11), 4(e) and 15 of the Federal Power Act (16 U.S.C. 796(11), 797(11) and 808).
- 4.00 Orders for interconnection of electric transmission facilities under Section 202(b) of the Federal Power Act (15 U.S.C. 824a(b)).
- 5.00 Certificates for the construction and operation of interstate natural gas pipeline facilities, including both pipelines and terminal facilities under Section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)).
- 6.00 Permission and approval for the abandonment of natural gas pipeline facilities under Section 7(b) of the Natural Gas Act (15 U.S.C. 717f(b)).

#### **ENVIRONMENTAL PROTECTION AGENCY**

- 1.00 NPDES permits and other permits for Federal installations, discharges in contiguous zones and ocean waters, sludge runoff and aquaculture permits pursuant to Section 401, 402, 403, 405, and 318 of the Federal Water Pollution Control Act of 1972 (33 U.S.C. 1341, 1342, 1343, and 1328).
- 2.00 Permits pursuant to the Resources Recovery and Conservation Act of 1976.
- 3.00 Permits pursuant to the underground injection control program under Section 1424 of the Safe Water Drinking Water Act (42 U.S.C. 300h-c).
- 4.00 Permits pursuant to the Clean Air Act of 1976 (42 U.S.C. 1857).

#### **DEPARTMENT OF INTERIOR**

##### Fish and Wildlife Services

- 1.00 Endangered species permits pursuant to the Endangered Species Act (16 U.S.C. 153(a)).

##### Mineral Management Service

- 2.00 Permits to drill, rights of use and easements for construction and maintenance of pipelines, gathering and flow lines and associated structures pursuant to 43 U.S.C. 1334, exploration and development plans, and any other permits or

authorizations granted for activities described in detail in OCS exploration, development, and production plans.

- 3.00 Permits required for pipelines crossing federal lands, including OCS lands, and associated activities pursuant to the OCS Lands Act (43 U.S.C. 1334) and 43 U.S.C. 931 (c) and 20 U.S.C. 185.

#### **INTERSTATE COMMERCE COMMISSION**

- 1.00 Authority to abandon railway lines (to the extent that the abandonment involves removal of trackage and disposition of right-of-way); authority to construct railroads; authority to construct coal slurry pipelines.

#### **NUCLEAR REGULATORY COMMISSION**

- 1.00 Licensing and certification of the siting, construction and operation of nuclear power plants pursuant to Atomic Energy Act of 1954, Title II of the Energy Reorganization Act of 1974 and the National Environmental Policy Act of 1969.

#### **DEPARTMENT OF TRANSPORTATION**

##### Coast Guard

- 1.00 Construction or modification of bridges, causeways or pipelines over navigable waters pursuant to 49 U.S.C. 1455.
- 2.00 Permits for Deepwater Ports pursuant to the Deepwater Ports Act of 1974 (33 U.S.C. 1501).

##### Federal Aviation Administration

- 3.00 Permits and licenses for construction, operation or alteration of airports.

#### **FEDERAL ASSISTANCE\*:**

#### **DEPARTMENT OF AGRICULTURE**

- |        |   |
|--------|---|
| 10.068 | Rural Clean Water Program   |
| 10.409 | Irrigation, Drainage, and Other Soil and Water Conservation Loans |
| 10.410 | Low to Moderate Income Housing Loans                              |
| 10.411 | Rural Housing Site Loans  |
| 10.413 | Recreation Facility Loans   |

- 10.414 Resource Conservation and Development Loans
- 10.415 Rural Renting Housing Loans
- 10.416 Soil and Water Loans
- 10.418 Water and Waste Disposal Systems for Rural Communities
- 10.422 Business and Industrial Loans
- 10.424 Industrial Development Grants
- 10.426 Area Development Assistance Planning Grants
- 10.429 Above Moderate Income Housing Loans
- 10.430 Energy Impacted Area Development Assistance Program
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.904 Watershed Protection and Flood Prevention
- 10.906 River Basin Surveys and Investigations

#### **DEPARTMENT OF COMMERCE**

- 11.300 Economic Development - Grants and Loans for Public Works and Development Facilities
- 11.301 Economic Development - Business Development Assistance
- 11.302 Economic Development - Support for Planning Organizations
- 11.304 Economic Development - State and Local Economic Development Planning
- 11.305 Economic Development - State and Local Economic Development Planning
- 11.307 Special Economic Development and Adjustment Assistance Program - Long Term Economic Deterioration
- 11.308 Grants to States for Supplemental and Basic Funding of Titles I, II, III, IV, and V Activities
- 11.405 Anadromous and Great Lakes Fisheries Conservation
- 11.407 Commercial Fisheries Research and Development
- 11.417 Sea Grant Support
- 11.427 Fisheries Development and Utilization - Research and Demonstration Grants and Cooperative Agreements Program
- 11.501 Development and Promotion of Ports and Intermodal Transportation
- 11.509 Development and Promotion of Domestic Waterborne Transport Systems

#### **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

- 14.112 Mortgage Insurance - Construction or Substantial Rehabilitation of Condominium Projects
- 14.115 Mortgage Insurance - Development of Sales Type Cooperative Projects
- 14.117 Mortgage Insurance - Homes
- 14.124 Mortgage Insurance - Investor Sponsored Cooperative Housing

- 14.125 Mortgage Insurance - Land Development and New Communities
- 14.126 Mortgage Insurance - Management Type Cooperative Projects
- 14.127 Mortgage Insurance - Mobile Home Parks
- 14.218 Community Development Block Grants/Entitlement Grants
- 14.219 Community Development Block Grants/Small Cities Program
- 14.221 Urban Development Action Grants
- 14.223 Indian Community Development Block Grant Program

#### **DEPARTMENT OF INTERIOR**

- 15.400 Outdoor Recreation - Acquisition, Development and Planning
- 15.402 Outdoor Recreation - Technical Assistance
- 15.403 Disposal of Federal Surplus Real Property for Parks, Recreation, and Historic Monuments
- 15.411 Historic Preservation Grants-in-Aid
- 15.417 Urban Park and Recreation Recovery Program
- 15.600 Anadromous Fish Conservation
- 15.605 Fish Restoration
- 15.611 Wildlife Restoration
- 15.613 Marine Mammal Grant Program
- 15.802 Minerals Discovery Loan Program
- 15.950 National Water Research and Development Program
- 15.951 Water Resources Research and Technology - Assistance to State Institutes
- 15.952 Water Research and Technology - Matching Funds to State Institutes

#### **DEPARTMENT OF TRANSPORTATION**

- 20.102 Airport Development Aid Program
- 20.103 Airport Planning Grant Program
- 20.205 Highway Research, Planning, and Construction
- 20.309 Railroad Rehabilitation and Improvement - Guarantee of Obligations
- 20.310 Railroad Rehabilitation and Improvement - Redeemable Preference Shares
- 20.506 Urban Mass Transportation Demonstration Grants
- 20.509 Public Transportation for Rural and Small Urban Areas

#### **GENERAL SERVICES ADMINISTRATION**

- 39.002 Disposal of Federal Surplus Real Property

## **COMMUNITY SERVICES ADMINISTRATION**

- 49.002 Community Action
- 49.011 Community Economic Development
- 49.013 State Economic Opportunity Offices
- 49.017 Rural Development Loan Fund
- 49.018 Housing and Community Development (Rural Housing)

## **SMALL BUSINESS ADMINISTRATION**

- 59.012 Small Business Loans
- 59.013 State and Local Development Company Loans
- 59.024 Water Pollution Control Loans
- 59.025 Air Pollution Control Loans
- 59.031 Small Business Pollution Control Financing Guarantee

## **ENVIRONMENTAL PROTECTION AGENCY**

- 66.001 Air Pollution Control Program Grants
- 66.418 Construction Grants for Wastewater Treatment Works
- 66.426 Water Pollution Control - State and Areawide Water Quality Management Planning Agency
- 66.451 Solid and Hazardous Waste Management Program Support Grants
- 66.452 Solid Waste Management Demonstration Grants
- 66.600 Environmental Protection Consolidated Grants Program Support Comprehensive Environmental Response, Compensation and Liability (Super Fund)

\* Numbers refer to the Catalog of Federal Domestic Assistance Programs, 1980 and its two subsequent updates.

**B. KEY IMPLEMENTATION ACTIONS**

The following is a listing of actions and projects necessary to further specify elements of the Head-of-the-Harbor/Nissequogue LWRP which require State or federal involvement.

| <u>Proposed Action or Project</u>   | <u>Appropriate State or Federal Agency Action</u>   |
|---|---|
| Harbor Preservation and Management<br>(Water Quality Monitoring Segment)                      | NYS Department of State<br>Division of Coastal Resources<br>-- Funding of portion of the water quality monitoring phase as a program refinement<br><br>SUNY - Stony Brook Marine Sciences Research Center<br>-- provision of staff and adequate staff time to participate in study<br><br>NYS Department of Environmental Conservation<br>-- provision of technical assistance, as required |
| Harbor/Preservation and Management Plan<br>(Phase II development of use allocation standards) | NYS Department of State<br>-- on-going coordination and technical assistance in laying out the parameters of the plan<br><br>-- assistance in securing funding<br><br>SUNY Stony Brook Marine Sciences Research Center<br>-- continuing staff involvement as the project moves into subsequent phases   |
| Application of Navigation Law, Article 46-a powers to Village of Nissequogue                  | NYS Department of Parks, Recreation and Historic Preservation<br>-- approval of Village Local Law pursuant to Navigation Law  |

Special or general legislation to permit Villages to regulate the construction and location of docks pursuant to the Navigation Law

NYS Department of State  
-- preparation of and support for special legislation

Construction of Bridge or Replacement of Culvert on Harbor Road

NYS Department of Transportation  
-- Design and construction funds for construction

Development of a Dredging Management Plan based upon the MSRC hydraulic model of Stony Brook Harbor and development of a similar plan for the Nissequogue River

NYS Department of State  
-- Intermunicipal coordination and technical support  
-- Assistance in securing funding

**SECTION VII**

**CONSULTATION WITH OTHER  
AFFECTED FEDERAL, STATE, REGIONAL  
AND LOCAL AGENCIES**

## **SECTION VII: CONSULTATION WITH OTHER AFFECTED FEDERAL, STATE, REGIONAL AND LOCAL AGENCIES**

This section describes the efforts of the Villages of Head-of-the-Harbor and Nissequogue to inform and involve other agencies as the Villages' LWRP was developed.

Since protection of the coastal waters adjacent to the Villages is of primary concern and a responsibility shared with the Town of Smithtown, the Villages have maintained an on-going exchange with the Town. There have been three formal meetings with Smithtown involving both Villages.

One of these meetings was held to formulate working a agreement between the Villages and the Town on expansion of the Town marina and mooring facilities at Long Beach. An agreement was reached; however, there were differing views on the content of the agreement. This led to another meeting to explore the same matters. The Villages made some concessions on the number of moorings in return for the installation of adequate pumpout facilities by the Town at the marina. Another meeting was held before the opening of the boating season on the same subjects. A third meeting was with the Planning Department of the Town and concerned Town plans for cluster zoning; this was informative in nature. Nissequogue has met separately on numerous occasions with the Town regarding the Scenic and Recreational Rivers designation for the Nissequogue, and on matters pertaining to the Town's recreational areas. In addition to these formal meetings, the Villages met on numerous occasions with Smithtown officials for informal luncheon discussions on coastal issues and LWRP content.

There have been numerous meetings with the Marine Sciences Research Center personnel at SUNY-Stony Brook. Two early meetings included representatives from both Villages and several members of the University who presented descriptions of the proposed modeling of the hydrodynamics of Stony Brook Harbor. At the second meeting the Villages clarified the special questions to which answers were sought. During the period covering the development of the model and its written presentation, three technical meetings were held involving representatives of Head-of-the-Harbor to act as special liaison between the Board of Trustees and the Center. Three meetings were held involving members of the Marine Sciences Research Center and David Sayre, who was appointed by the Mayor of Head-of-the-Harbor to act as special liaison between the Board of Trustees and the Center. Three meetings were held at which the results were communicated to the Joint Committee on Coastal Management Planning, the advisory committees of both Villages, and finally, representatives from the Villages and from the Towns of Smithtown and Brookhaven, with an eye toward using the model, or possible other scientific undertakings, in connection with future planning for the harbor.

Other meetings, of which there have been two, were planning sessions at which a proposed contract between the Marine Sciences Center and the Village of Head-of-the-Harbor was discussed, and the outline of problems posed formulated. The plan for the next stage of work was ready for acceptance, focusing on water-quality monitoring of the harbor; (some preliminary

work has already been done in such monitoring.) The water quality monitoring program began during the late spring of 1989, and was completed by the fall of 1989.

Two meetings, open to the public, were held with the Peconic Land Trust, in order to make a preliminary exploration of the usefulness of the Trust in planning land preservation in the Village of Head-of-the-Harbor. The Trustees of Head-of-the-Harbor had a separate meeting with the Peconic Land Trust on this matter.

One meeting was held with the Department of Environmental Conservation in the matter of granting dredging permits for small projects in connection with the Smithtown Town Marina and the Stony Brook Yacht Club "spur" approach. This was inconclusive.

An informal exploratory meeting was held with the Board of the Stony Brook Harbor Association, to explore potentials of future cooperation with the LWRP.

There have been three meetings with the Boards of Trustees of the two Villages jointly: an initial meeting on the agreement for joint Village action, a meeting on the first draft of the policy document, and another one following policy document revisions.

Discussions concerning implementation have been separately held owing to the differences in Village problems, interests, commitments, etc. In Head-of-the-Harbor there were four meetings of the full Village advisory board--mayor, trustees, chairman of Planning Board, Architectural Review Board, Village attorney, engineer, historian, and CAC representative. The first of these was on policy revisions concerning policies that are of particular importance to, or particularly affect, the Village; the second was to survey implementations; the third was to consider further a range of potential actions with activities for both the immediate and the more remote future--to indicate, if sketchy, particular areas for long-range planning, and suggest possible means of carrying out such plans, primarily the financing of them.

There have been and continue to be constant informal consultations between the Villages, among the Villages and the Towns--especially Smithtown, but occasionally Brookhaven. Several public meetings are planned in connection with the local adoption of the LWRP.



## **SECTION VIII: LOCAL COMMITMENT**

It has been clear from the outset that in the Villages of Head-of-the-Harbor and Nissequogue the creation, implementation, and execution of any Local Waterfront Revitalization Program would be wholly dependent upon a high level of continuing local commitment. No doubt this requirement is general; in this instance it is imperative, as there is no external source of energy available for the purpose of program-making or plan execution. The non-developmental, conservation and preservation-directed nature of the plan best suited to the needs of the Villages required local conception and initiative as well as direction, and fulfilling such a plan demanded the participation of residents and local officials and the commitment of local funds. Historically, the impetus towards the creation of an LWRP arose initially within local government, and all steps in the planning stage have involved all members of the local government of the two Villages as well as a number of residents.

1. A Joint Committee for Coastal Management Planning was formed by the Villages of Head-of-the-Harbor and Nissequogue. Three members were appointed by each Mayor, one member from each Village was named Co-Chairman. The duty of the Planning Committee was to enunciate policies, propose implementations, and create preliminary documents.
2. A primary Advisory Committee was constituted, consisting of the Mayors and Boards of Trustees of the Villages. The preliminary drafts of policies and suggested implementations were presented by the Planning Committee to this body. The Boards of Trustees, acting jointly, commissioned a study of the hydrodynamic characteristics of Stony Brook Harbor, to be made by the Marine Sciences Research Center, SUNY/Stony Brook. The study has been accomplished, funded by a combination of State, County, private, and Village contributions. Proposed expansion of harbor studies is part of the Villages' LWRP.
3. A second draft of the LWRP was presented by the Planning Committee to a second Advisory Committee, enlarged to include all members of Village government of both Villages: Mayors, Trustees, Planning Board, Conservation Advisory Council, Board of Architectural Review, Village Attorney, Village Engineer, Village Clerk. The revisions suggested by this Advisory Committee are incorporated into the final LWRP which was presented to the DOS.
4. The revised Draft LWRP was presented at a public meeting prior to submission to the DOS. The meeting was advertised in the legal manner and copies of all documents to be discussed was available at the Village office. The LWRP of the Villages includes the improvement of means of local communication, which are poor, owing to the geographical and demographical nature of both Head-of-the-Harbor and Nissequogue, neither of which has a post office, or village center, and in both of which the population density is low.

5. Additional public participation was included during the public hearing on the Draft Environmental Impact Statement, and subsequently, in connection with public hearings required for the adoption of implementing legislation.

The LWRP for Head-of-the-Harbor and Nissequogue recognizes the problems generally, and inherently, connected with the dissemination of information in small scattered communities, and the eliciting of steady participation by the residents. Various means of improving communication between government and residents, and residents and local government, have been undertaken and proposed, including the distribution of a regular newsletter. The formation of an active residents' association particularly connected with management activities in Stony Brook Harbor is encouraged by local government.

NOAA COASTAL SERVICES CENTER LIBRARY



3 6668 14108 5086